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CHILD SUPPORT ENFORCEMENT PROGRAM REFORM PROPOSALS

HEARINGS

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

JANUARY 24 AND 26, 1984

Printed for the use of the Committee on Finance

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CHILD SUPPORT ENFORCEMENT PROGRAM REFORM PROPOSALS

TUESDAY, JANUARY 24, 1984

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.

The committee met, pursuant to notice, at 1:52 p.m., in room SD-215, Dirksen Senate Office Building, Hon. Robert Dole (chairman) presiding.

Present: Senators Dole, Durenberger, Grassley, Long, Moynihan, and Bradley.

Also present: Senators Hatch, Hawkins, Kassebaum, Proxmire, and Trible.

[The press release announcing the hearing and the prepared statements of Senators Dole, Durenberger, Grassley, Bradley, and Boren follow:]

[Press Release No. 83-205]

PRESS RELEASE

FOR IMMEDIATE RELEASE, DECEMBER 12, 1983

U.S. Senate, Committee on Finance, SD-219 Dirksen Senate Office Building

SENATE FINANCE COMMITTEE SETS HEARING ON CHILD SUPPORT ENFORCEMENT PROGRAM REFORM PROPOSALS

Senator Robert J. Dole (R., Kans.), Chairman of the Senate Finance Committee, announced today that the Committee will hold a hearing on Tuesday, January 24, 1984, on pending legislation dealing with the Child Support Enforcement Program.

The hearings will begin at 2:00 p.m. on January 24, 1984 in Room SD-215 of the Dirksen Senate Office Building.

In announcing the hearing, Senator Dole said "the Finance Committee and two of its subcommittees received testimony earlier this year on the Child Support Enforcement Program. Most recently, in September, the Secretary of Health and Human Services, the Honorable Margaret M. Heckler, appeared before the Subcommittee on Social Security and Income Maintenance Programs. Secretary Heckler's statement focused on S. 1691, the Administration bill which is aimed at refining the child support program and improving its effectiveness and efficiency. S. 1691 was introduced in July and cosponsored by every majority member of the Finance Committee along with several other Senators," Senator Dole continued.

"The Finance Committee has set child support enforcement reform as a top priority for the Second Session of the 98th Congress. Therefore, it is important to move quickly to conduct a hearing on the pending legislation in preparation for a speedy mark-up," Senator Dole said. "It is my hope that an Administration representative will appear to comment on the House bill (H.R. 4325), as well as the several bills pending in the Senate."

The Finance Committee is especially interested in comments regarding the financial incentive formula included in the Administration bill and the one included in the House bill. Both formulas are intended to encourage States to improve collections for the nonwelfare cases as well as the welfare caseload. "This is one of the most important features of the various reform bills," Senator Dole concluded.

A number of interested individuals and organizations have already submitted statements to Senator Bill Armstrong's Subcommittee on Social Security and Income Maintenance Programs. Those statements will be distributed to the members of the Committee and included in the record of this hearing. Should these individuals or organizations wish to expand their earlier statements to include specific comments on the House bill, those additions will be included in the record of this hearing.

OPENING STATEMENT OF SENATOR DOLE

This afternoon's hearing, and the one scheduled for Thursday afternoon, will focus on the Federal-State child support enforcement program and efforts to provide the tools to make that program more effective. Today the committee will hear from four of our colleagues in the Senate, two Members of the House of Representatives who were instrumental in the development and passage of the bill which passed that body in November, a Governor, a speaker of a State assembly, and a director of a State department of health and social services. All of these witnesses are strong supporters of the current child support program and all are eager to see Congress enact improvements in the program quickly during this session of the 98th Congress. Let me assure everyone in this room that I share that support and interest. It is my intention to move legislation out of the Finance Committee and to the full Senate before the February recess.

The Finance Committee held hearings on this issue several times last year. During the full committee hearings on the fiscal year 1984 budget, testimony was received from the administration and from public witnesses on the need for reforms in the child support program. Senator Grassley's Subcommittee on Oversight of the Internal Revenue Service held a hearing on the tax intercept aspects of the current program and proposals to expand the provision to Federal income tax refunds. Hearings were also conducted on the Economic Equity Act, introduced by Senators Durenberger and Packwood. That bill contains a full title dealing with child support. Finally, Senator Armstrong chaired a hearing of the Subcommittee on Social Security and Income Maintenance Programs at which Secretary Heckler testified on the administration's child support initiative.

The hearings we begin today will expand the earlier record and provide the committee with suggestions for improvements in the House-passed bill, H.R. 4325, and the administration bill, S. 1691. The administration child support enforcement reform package was introduced in the Senate on July 27, 1983, and cosponsored by every member of the Finance Committee on the majority side, as well as by two of our first witnesses this afternoon, Senators Kassebaum and Hawkins. Numerous meetings have been held between Finance Committee staff, members' staff, the administration, State child support enforcement program administrations, and various interest groups. I believe we are ready to move forward with a proposal that will build on the administration plan and improve on the House bill as well.

I have a longer statement which I will place in the record. Before calling the first witness, however, I would like to acknowledge the work of the ranking minority member of this committee, Senator Long, in the development of the child support enforcement program. Clearly, without Senator Long we would not be here today. Senator Long is the "father" of the Federal child support program and his efforts to further the program's goal of providing financial support to children can not be understated. I also want to acknowledge the efforts of the Secretary of Health and Human Services, Margaret Heckler, who has made child support enforcement reform a top priority at the department. Finally, we should also acknowledge the work of President Reagan who has been involved with child support enforcement since the very beginning, even while serving as Governor of California. The President shares our commitment to the development and speedy enactment of effective reform legislation.

THE CHILD SUPPORT ENFORCEMENT (CSE) PROGRAM

Title IV-D of the Social Security Act was passed in 1975 to establish a program of child support enforcement. The program provides services to locate absent parents, establish paternity, and assist in the establishment and collection of court-ordered, administratively ordered, and voluntary child support. The program covers families receiving benefits through the aid to families with dependent children (AFDC) program and to non-welfare families.

Although the program has been in place and operating on a relatively successful basis for a number of years, the importance of the program has only recently been widely recognized. The nonpayment of child support is emerging as one of the most difficult social and economic problems facing our country. A recent census bureau report, "Child Support and Alimony: 1981", details the extent and seriousness of the problem. For example, as of spring 1982, 8.4 million women were living with a child under 21 years of age whose father was not present in the house. Only 59 percent of these women were even awarded child support payments.

Clearly, if we are to judge from the experience of 1981, a much smaller number actually received full or even partial payment. Of the 4 million women due child support payments in 1981, only 47 percent received the full amount. The census bureau report goes on to state that of the remaining 53 percent, ". . . there was no evidence of a difference between the proportion receiving partial payment and those who received no payments at all." An even more distressing statistic reveals that the child support award levels of receipt were not significantly different from those reported in the 1979 survey. In fact, between 1978 and 1981, child support payments decreased by about 16 percent in real terms.

The statistics go on and on. But the conclusion is clear: child support is largely being ignored and the economic well-being of children is suffering. The present Federal-State child support program has been a success. It has accomplished much in its brief existence. There is broad agreement that more can and must be done.

The administration is to be applauded for the initiative it has shown in working with the State administrators, Members of Congress, and the public to try to find a solution to the problem of nonpayment of child support. The bill (S. 1691) introduced by the majority members of this committee is clearly not the only response; nor is it without flaws. The bill does, however, represent a serious attempt to improve the program and thus improve the level of collections for both the welfare and nonwelfare populations.

Children deserve support and we can help provide that support by putting more muscle in the child support enforcement program. The president has demonstrated a longstanding commitment to this program, dating from his days as Governor of the State of California. Congress has demonstrated a longstanding commitment to this program since its inception in 1975. The Secretary of Health and Human Services has demonstrated her commitment to the program by her vigorous efforts to develop this new approach. We can all improve on those commitments and I pledge that we will act on child support legislation very soon during this final session of the 98th Congress.

STATEMENT BY SENATOR DAVE DURENBERGER

Mr. Chairman, I am pleased that our committee is addressing the important issue of child support today. I want to commend you for your interest in improving our child support system and promoting economic equity for women.

I am pleased that Secretary Heckler has come to testify today and am hopeful that the administration will be supportive of our efforts to eliminate all forms of economic discrimination against women.

Failure to pay child support in this country has reached epidemic proportions. In fact, this situation has become so serious that everyone knows someone who is not receiving child support.

Translated into dollars and cents and national statistics, this problem is even more horrifying. Between a quarter and a third of fathers never make a single court-ordered payment. Absent parents fail to pay approximately three billion dollars each year, and this trend is growing.

In addition, the number of single-parent families has mushroomed. In 1980, there were 8.5 million single-parent families, and increase of over 100 percent from 1970. The Census Bureau predicts that only half of all children born this year will spend their entire childhood living with both natural parents. Women head 90 percent of the rapidly growing number of single-parent families.

What happens to a woman when confronted with a marriage that has been irreconcilably broken by financial problems, communication breakdowns, and changing values? At age forty, she may find herself raising her children alone, with no or limited means of support and terribly frightened.

Her efforts to achieve self-sufficiency and regain her self-esteem are frustrated by forces beyond her control. She quickly learns that the chances of employment are few without job skills and experience. She is confronted by the fact that the same society that encouraged her to raise and care for her family, how refuses to attach a value to the work she has performed.

If she is fortunate enough to obtain an order for child support from her former spouse, there is no guarantee that the support will ever be paid. While her standard of living quickly declines, she sees her former husband's increasing.

In many cases, she will be forced to turn to public assistance just to make ends meet. Only then can she find help collecting past-due support. Once the support starts arriving her financial situation improves—she now has enough income to obtain adequate dependent care, pay her medical bills, and provide for transportation expenses.

Unfortunately, once she becomes self-sufficient she no longer finds child support collection officials anxious to pursue her child support claims. In time, the support stops and she is forced to return to public assistance. This Catch-22 may continue throughout her children's lives.

The breakdown of the American family is shocking in a society that has placed that institution at the apex of its social structure. Family dissolution is a problem that we, as national leaders, must address in the coming years. If we are going to maintain the backbone of our society, we must begin to search for ways in which we can keep the family together.

All too often we have ignored this need and sacrificed family unity and self-reliance for well-intentioned economic considerations. In doing so, we have damaged the health of America's children.

A child confronted by dissolution is frequently caught in an inwinnable and unhealthy situation. Far too often, children are used as puppets by parents who are acting out their own frustrations.

Not only do these children suffer during the course of the legal proceedings, but their anguish may continue for many years to come. In many cases, visitation and support issues rapidly intertwine to catch the children in their parents' games of cat-and-mouse. For example, any one of the following are typical scenarios—(1) the absent parent fails to pay support, and the custodial parent terminates visitation, (2) the custodial parent refuses visitation, and the absent parent stops paying support, (3) the absent parent purchases gifts for the children in lieu of support, or (4) either or both parents move to a new locality.

These are just a few of the tragic situations that follow divorce, but they all lead to one inevitable conclusion—the innocent children are the ultimate victims.

Although these serious family law issues are primarily within the jurisdiction of the state and local governments, Congress does have an obligation to protect these children's financial well-being by tackling the child support enforcement problem.

I am hopeful that the Senate will follow the example the House set in November by unanimously enacting a strong child support bill. I have been extremely concerned about this problem and made child support enforcement a significant part of both the Economic Equity Act of 1981 and the Economic Equity Act of 1983. I strongly support passage of forceful legislation, and Senator Bradley and I introduced the House bill today with the hope that other Senators will join our effort. The time has come to stop talking about this problem and take action.

When we mark up child support enforcement legislation next week, I believe we must ensure that we report a strong bill that contains the following measures, among others:

Mandatory wage withholding after arrearages equal one month.

Mandatory quasi-judicial procedures.

Mandatory federal and state income tax offsets for both AFDC and non-AFDC families.

Mandatory liens against real and personal property.

Mandatory security and bonding procedures.

Tracking and monitoring of child support payments.

Strong support for clearinghouses.

Provisions for establishment of paternity.

The House incentive and financing proposal.

Adequate safeguards for AFDC recipients who are terminated from the AFDC program due to the receipt of child support.

Encouragement to the states to address issues such as child custody, visitation, and objective standards for support.

As I have said before, I am encouraged by the attention being devoted to the child support enforcement issue, but continue to believe the most effective way for Congress to address economic inequity faced by women is to pass the Economic Equity Act with all of its other reinforcing provisions.

I am hopeful that we will take action on the other provisions of the Economic Equity Act during the 2nd Session of this Congress. The Senate should distinguish itself this year as the leader in removing economic discrimination. We must act to improve child support enforcement by passing a bill that is strong and meaningful. We must also take action to increase the availability of the dependent care tax credit. We should follow the example of the U.S. Supreme Court and remove all insurance discrimination that currently exists. We should extend the reform in public pensions to civil service retirement. Finally, we must set an example by removing impediments established in our regulatory and tax codes.

1964 was a historic year for the civil rights movement. Twenty years later we have an opportunity to make 1984 a historic year for promoting economic equity for women in America.

Passage of strong child support enforcement will be a promising sign.

STATEMENT OF SENATOR CHARLES GRASSLEY

Mr. CHAIRMAN. I want to express my appreciation to the distinguished chairman for scheduling full committee hearings on child support enforcement legislation so soon after the Senate reconvened. I had hoped we would have completed mark-up on a committee bill by this time, but unfortunately, time constraints at the end of the first session prevented the committee from taking action. It appears that we are now ready to move forward with a legislative recommendation, and these hearings have a very important role in that process.

The bill passed earlier by the House of Representatives is a well balanced bipartisan package which deserves our careful attention. My own bill. S. 1708, which I introduced last year, contains many of the same provisions the house accepted in their child support enforcement legislation. In addition to sponsoring S. 1708, I have joined two of my Finance Committee colleagues, Senators Durenberger and Bradley, in cosponsoring their introduction of a Senate companion bill to H.R. 4325. We must continue to signal our intention of recommending a strong child support enforcement package.

One provision the House did not adopt which is included in my bill is the collection of past-due support from Federal tax refunds on behalf of non-AFDC families. I am particularly interested in hearing the comments of witnesses on this proposal. In my Subcommittee on Oversight of the Internal Revenue Service, I held hearings on the effectiveness of this collection technique and I hope to receive additional comments today. Several other measures need a careful airing, including the tracking and monitoring procedure, paternity establishment, the new incentive formula, and the State commissions which are provided for in the House bill. It is my intention to get a clearer picture of the ramifications of the numerous provisions in the House legislation and also the merits of including additional provisions intended to enhance enforcement.

I look forward to hearing the testimony of our many distinguished witnesses.

STATEMENT BY SENATOR BILL BRADLEY, INTRODUCTION OF CHILD SUPPORT ENFORCEMENT LEGISLATION

Today I am introducing legislation to address the growing problem of parents who fail to make court-ordered child support payments.

When parents bring children into the world, they have a responsibility to care for that child. Too often, non-custodial parents do not fulfill that responsibility. It has become a national disgrace.

My legislation, which is cosponsored by Senator Dave Durenberger, is a bipartisan effort to assure the payment of child support through mandatory income withholding, incentive payments to states, and other improvements in the child support enforcement program.

We can not act soon enough. In the past years, the number of children living in single parent families has increased dramatically. In 1980 there were more than 8 million families with minor children headed by one parent. Both parents should be responsible for giving their children food, shelter, health care, and an education.

Too often, one parent is not doing his or her share to provide support. In 1978, about 7 million women were raising children under the age of 21 in a household where the children's fathers were not present. Fully 40 percent of those mothers received no child support awards. Of the 60 percent who were entitled to child support, 28 percent never got the money, and 23 percent consistently received less than the amount awarded by the court. This legislation is designed to confront the problem of child support enforcement and to begin solving it.

In New Jersey some steps have been taken to improve that situation. We have an outstanding child support enforcement program in Essex County begun by County

Executive Peter Shapiro more than two years ago. We need similar initiatives extended to every county and every state in this nation.

The bill that Senator Durenberger and I are introducing today is identical to legislation championed by Representative Marge Roukema in the House. That legislation passed unanimously and I look forward to the same action in the Senate.

CHILD SUPPORT ENFORCEMENT STATEMENT BY SENATOR BOREN

Mr. Chairman: The Child Support Enforcement program is an attempt to correct a national tragedy. Many innocent children must do without necessities simply because one of their parents is behind in child support payments.

In fact, of the 4 million women due to receive child support in 1981, only 47 percent received the full amount due. The failure of some absent parents to fulfill their court-ordered obligations has been so flagrant that unpaid child support monies totaled $3.8 billion in 1981.

It is encouraging, then, to see Congress moving to correct the problem, and I am pleased to be part of that effort. I have cosponsored S. 1708, Senator Grassley's bill which will beef up enforcement of child support orders by requiring that past-due child support payments be automatically withheld from the absent parent's paycheck. The bill would also require that past-due child support payments be deducted from the state income tax refund sent to an absent parent who is behind in support payments. This practice is already followed with respect to federal income tax refunds.

At the same time we strengthen enforcement of child support orders, however, we should take steps to ensure that these orders are fair. To that end I have joined with Senator Durenberger in introducing a resolution calling for the protection of all parties in court orders establishing custody rights, visitation rights, and child support. Both the custodial parent's right to child support payments and the absent parent's right to visitation should be protected.

Mr. Chairman, I am pleased to see the Senate addressing this issue, and I will work to enact this much-needed reform.

The CHAIRMAN. First let me indicate that this afternoon's hearing and the one scheduled for Thursday afternoon will focus on the Federal-State child support enforcement program and efforts to provide the tools to make that program more effective. We are going to hear from a number of our colleagues today on the House and the Senate side in addition to Governor Kean from the State of New Jersey, the speaker of the Wisconsin House of Representatives a witness from the General Accounting Office, and a witness from the Delaware Department of Health and Social Services.

We held hearings on this issue several times last year. During the full committee hearing on the fiscal year 1984 budget, testimony was received from the administration and from public witnesses on the need for reforms in the child support program.

Senator Grassley's Subcommittee on Oversight of the Internal Revenue Service also held a hearing on the tax intercept aspects of the current program and proposals to expand the provision to Federal income tax refunds. We also had hearing: on the Economic Equity Act, conducted by Senators Durenberger and Packwood. As most of you know, that bill contains a full title dealing with child support.

In addition, Senator Armstrong chaired a hearing of the Subcommittee on Social Security and Income Maintenance Programs at which Secretary Heckler testified on the Administration's child support initiatives.

So the hearings that begin today will expand the earlier record and provide the committee with suggestions for improvements in the House-passed bill and the administration bill.

We have introduced the Child Support Enforcement Act for the administration. It was cosponsored by every member on the majority side as well as two of our first witnesses this afternoon, Senators Kassebaum and Hawkins, who will be here a little later.

I have a longer statement which I ~~will~~ place in the record, but I would say that we hope to report this bill out of the committee before February recess period. I would also want to acknowledge the work of Senator Long in the development of the child support enforcement program. Clearly, without Senator Long we would not be here today. He is the father of the Federal child support program, and his efforts to further the program's goal of providing financial support to children cannot be understated.

I would also acknowledge the efforts of Secretary of Health and Human Services Margaret Heckler, who has made child support enforcement reform a top priority at the Department.

I think, also, I would certainly want to recognize the efforts of the President, and we appreciate his commitment to this program.

The balance of my statement contains statistics and other material, and I would ask that it be made a part of the record.

Senator Moynihan, do you wish to make any preliminary statement before we go on?

Senator MOYNIHAN. Mr. Chairman, I would like to welcome Representative Kennelly, who has been so singularly adept in getting that legislation we have now through the House, and we are looking forward to hearing from her.

I would make two points, one of which is familiar perhaps, and one of which is not. And that is first, of all the women who are entitled ~~to~~ child support in the United States today, only 72 percent get any, and fewer than half get all that they are entitled to. So we have a real problem here, and in my view it is principally to be seen as a problem of children.

There is perhaps not a more striking fact of our national life, that of children born in 1980, or 1983 or 1984, we project that more than one-third of them will be on public assistance before they are 18 years of age. More than a third of our children are going to be dependent in some way on public assistance, and in that context most of them will be entitled to some kind of parental support. Some will get it and some will not, and this is an effort to see that more do. We are talking about one-third of our children here.

I thank the chairman for holding these hearings the very second day of the new session.

The CHAIRMAN. Well, I appreciate that statement very much. I think the fact that we are moving quickly is an indication of the commitment of everyone on this committee. And we do appreciate the efforts of you, Congresswoman Kennelly, and others on the House side for doing your job ahead of us. We hope to catch up very quickly.

We are also pleased to have Senator Hatch, the chairman of the Labor Committee, with us today. Senator Hatch has had a strong interest in this issue. If it is all right with you, Senator Hatch, we will defer to the House side.

Barbara, we are happy to hear from you.

STATEMENT OF HON. BARBARA KENNELLY, U.S. REPRESENTATIVE FROM THE STATE OF CONNECTICUT

Mrs. KENNELLY. Thank you, Mr. Chairman. And thank you, Senator Moynihan.

It is a great pleasure for me to be here today to testify in favor of child support enforcement. We have met before and talked about this, and I well remember when you allowed me to come here last summer, when you were beginning the Women's Economic Equity Act. I can only say thank you that we are back here today. You did your job on your side by passing the Pension Equity Act before you left, and we did our work on our side by having a unanimous vote for the child enforcement piece of legislation before we left. Now, if we can both pull off the same thing with the same vote, in the next session I would say women, children, and men of this country would be very well off.

As you know, I was a part-sponsor and worked hard, but if it hadn't been for the Chairman, Senator Dole, and for the members of this committee being able to say that you were moving on, that you were in support of child support enforcement and that you understood the issues—as, Senator Moynihan, you have so eloquently expressed—and what the bottom line is and that it is children that are the ones that we are really trying to take care of.

Something that I have said time and time again when I was working on this legislation on the House side is, I think one of the reasons—one of the reasons—why we have been so successful in this piece of legislation is that we all agree, whether we are Democrat or Republican, that children don't have a political party. And I think that's why Mr. Campbell and Mr. Ford, on my side, why we have been able to work together on this piece of legislation.

Like you, Senator, I know it is a long afternoon, and I will put my statement on the record, but I would like to say a few things about the legislation as I worked with my colleagues on the House side.

One of the first things I would urge you is to not cut the Federal match of 70 percent. We had hearings, as I know you will hear this afternoon, and I just don't think it is a good idea; in fact, I would go so far as to say it would be absolutely counterproductive, to say to States, "We want you to do a better job," that "we think child support enforcement is important. The Federal part is going to be less, but we want you to do a better job." And I think you are going to know that, too.

We did work very hard on the formula that is in the bill, and that formula is an incentive system. And once again, I say to you, I don't think it would be a good idea to say to the States that are doing a good job, "OK, we are going to back you and help you more, but we are going to take that money from the Federal match"; therefore, it would be counterproductive, again, having the States that didn't do well, or having it taken away from them.

I want to go on, also, and say to you: We did go into other areas that haven't been in this bill, because we really felt the original intent of the 1975 legislation was to take care of all children, AFDC and non-AFDC. We all know, as you said, we have to thank Senator Long for his marvelous work in making this an issue in this country. But the trend has been and the trend continues to be, because it is easier and the laws are set up as such, to go after the AFDC case. This piece of legislation we are looking at is also for children that are not involved in AFDC, the non-AFDC, the person, the woman, the man, the whoever, that got that court order, Senator, and has that court order in their hands. They know that they should be getting child support. The child finds out that there isn't any support coming—the court order is there, but it hasn't been carried out.

These are the frustrated people. These are the people we are hearing from and I think you are going to hear from.

So I would say, continue that effort to help those who are non-AFDC, but don't let up on the AFDC side. I think we can do two things at once and not have to give and take on either side.

Further, I think you are going to see—and I know you are going to have controversy, as I did, on some of the things that we put in the legislation—that we could work with the States. It is my feeling, when you come right down to it, that we are not going to have successful child support legislation if we don't work with the States. It is the State legislatures, the court systems, the people involved in child support enforcement that are going to make this go, no matter what we do.

So we put in some things that you are going to hear controversy about; you are going to hear some people not be so happy. But we have put commissions in there, and why we did it, we want them to be high-level commissions; we want them to be commissions that can take up other questions. We are doing support. We know that the children are suffering who aren't getting that support, but the question goes further. To paraphrase Ellen Goodman, she said, it is very hard to have a good marriage, but to have a good divorce is very difficult. And this is the type of thing that makes it more difficult.

So I would say, have these commissions—and have them be good commissions, representing the courts, the legislature the people who have worked in child support—have these look at other questions which I don't feel I have the expertise or the ability to go into, like visitation.

You are going to hear and I know you have heard, like I have heard, that you go for child support—and there are those people, and I will have to say it, some women who hold up the visitation until they get the child support—and the father will say the child support is being held up because "I can't visit." I have heard it, and I have heard it, and it's true; but we can't link these issues.

Our thrust now is, let a child in the United States of America have adequate support, because parents should support their children. However, let's look at visitation, let's look at joint custody. But we haven't got the expertise here. We should leave it to the States. We are giving them a child support enforcement vehicle, a good piece of legislation; we have a good bill between the two of us. I think we can work on it and bring it to the States so that the children of the United States are well served. I think it is something we could be proud of.

I thank you and hope we can work together, and I hope we have another success. Thank you very much.

[The prepared statement of Representative Kennelly follows:]

TESTIMONY OF REPRESENTATIVE BARBARA B. KENNELLY, FIRST CONGRESSIONAL DISTRICT, CONNECTICUT

Mr. CHAIRMAN: It is a great pleasure for me to be here today to testify in favor of H.R. 4325, The Child Support Enforcement Amendments. Who would have thought when the Senate Finance Committee began its important hearings last July on the Economic Equity Act that the Congress would have progressed this far, this fast. Indeed, child support legislation has been on the fast track since its introduction last year. The progress we have seen on economic equity legislation is in large measure due to the leadership of the Members of this Committee. All of you are to be congratulated. In the final days of the last session the Senate passed a pension equity bill by unanimous consent and the House approved child support legislation by a remarkable 422—0 vote. The fact that you have given H.R. 4325 a top priority is much appreciated, and I can assure you that I am working hard to see that pension equity moves quickly on our side.

I am the main sponsor of the House-approved bill on child support. It is consensus legislation. It is good legislation. It is needed legislation. And, as President Reagan would say, it is hard to argue with success. There are some provisions that I might like to see modified; I am sure that Chairman Ford and Mr. Campbell and other members who worked hard on the bill would say the same thing if they were here. But we think we have come up overall with a good, strong package of amendments to the child support enforcement program. Our bill represents something we could all agree on. First, we made the financing formula reflect the original intent of Congress to help all children in need of securing financial assistance from their parents. There are balanced incentives for pursing both welfare and non-welfare cases; interstate efforts should also improve with the added bonus for interstate cooperation. In addition, the formula reflects the concern of both the Congress and the Administration that the States make their programs as cost-effective as they can—we encourage better performance where it should be encouraged: in the incentive bonuses. We did not decrease the federal match of 70 percent of administrative costs because we wanted to ensure stability in the state programs. It was our view that anything lower than 70 percent could undercut States performing poorly, rather than building them up. We did not want to defeat our purpose, as we would have, if we had tried to encourage better efforts with fewer guaranteed funds. I know this committee has looked closely at the issue of financing for the Child Support Enforcement Program and has heard compelling arguments against a cut in the federal match. I too would urge the Committee to reject any decrease in the federal share.

The second main component of our legislation requires the States to put in place new laws which have proven effective in the collection of child support. I believe we have provided the States with useful tools to improve their programs. What is also important, and often overlooked, is that there will be a more uniform framework of laws nationwide and that too will help with the vexing difficulties of interstate cases.

Thirdly, H.R. 4325 provides for the establishment of higher-level, working commissions to review and make recommendations about child support enforcement within the State. I would hope that all States take these commissions very seriously. Child support legislation has become a lightening rod for the many issues involved with the problems of family breakdown and the way our various levels of government deal with these problems. These issues surrounding family breakups are terribly difficult. From my view, I do not believe we as a society have dealt with them very well at all. Certainly this country's record of child support payment is an example of that, and I am sure you have heard as I have heard about bad judges, bad parents, unjust court orders from amounts of support awarded, unfair or damaging custody decisions. Althought no-fault divorce is more prevalent that it was, no-pain divorces do not exist. Both spouses—and the children—suffer; and the suffering does not stop after the court settlement. Ellen Goodman, the cloumnist, put it best (and I paraphrase): "It is hard to have a good marriage; it is even harder to have a good divorce." I believe we can make substantial progress in dealing with one factor in this quotient of suffering, the financial deprivation of children, if we pass this legislation. I do not believe it is now appropriate for Congress to prescribe anything in the areas of visitation as it relates to support or to propose how to make support orders more uniform and appropriate. I do believe, though, that these issues should be the focus of attention of all the States, particularly by those people in the States who can do something about the problems that may exist.

I know you have many witnesses to hear from and I will end my remarks now with just the one hope that as this legislation progresses and both we hear from both custodial parents and noncustodial parents, federal officials and state program administrators, Senators and Representatives, that we all keep in mind the interests of those who are not here, those for whom we are pursuing the legislation: the children. They are not only entitled to support from their parents, they are entitled to support from us.

The CHAIRMAN. Pat, do you have a question?

Senator MOYNIHAN. Not a question, Mr. Chairman, but I would very much like to agree with Representative Kennelly's statement about keeping the 70-percent ratio. That is surely the minimum we should do.

Mrs. KENNELLY. Thank you, Senator.

The CHAIRMAN. Thank you very much, and we appreciate your leadership. As you have indicated, there are a number of areas we will be looking at. I think the one question some of us may have is whether or not the administrative costs are too high. In some cases we collect less than a dollar-for-dollar in costs. In other States—I guess the average—we get about $2.90 for every dollar invested But I think we can address those areas in different ways.

I noticed that four Governors writing in the Washington Post Sunday are demanding that we cut the deficit. So we want to try to help the Governors by letting them assume a little more financial responsibility for this worthwhile program.

Mrs. KENNELLY. Senator, I think you are going to find, when you look at the formula that we have worked on, you will see that there will be, by 1988, an increase in what can be collected administratively as well, and the incentive system will work.

The CHAIRMAN. Thank you very much.

We are very pleased to have four of our colleagues here. I have introduced Senator Hatch, and we are certainly happy to have Paul Trible and Nancy Kassebaum and Paula Hawkins.

You may proceed in any way you wish. Orrin, you were here first, so you should go first.

Senator HATCH. Thank you, Mr. Chairman.

The CHAIRMAN. Your entire statements will be made a part of the record.

STATEMENT OF HON. ORRIN G. HATCH, U.S. SENATOR FROM THE STATE OF UTAH

Senator HATCH. Thank you.

I am pleased to join my distinguished colleagues—Representative Kennelly, and of course, Senators Kassebaum, Hawkins and Trible—in being here today.

As chairman of the Labor and Human Resources Committee, I have participated actively in a whole series of hearings which examined the root cause of separated or broken families.

In our national community, the tragedy of a broken or separated family is a problem which cannot be placed on hold or left to another Congress to try to ponder or solve. Summarizing the national statistics that we uncovered, we find a rise in the number of women entering and remaining in the work force, a growing number of single heads of family households, an escalating rate of divorce and separation, with fewer parents having custody of their children with child support payments to assist in the care of them even in a baseline adequate manner.

Nonsupport by an absent parent cannot be tolerated, and we have to reaffirm the parent's responsibility for a child who is otherwise all too vulnerable to the ill wind of desertion, separation, or divorce.

We have found an awful lot of statistics that make a lot of difference here. I am very pleased that in my home State the State legislature is actively considering several bills strengthening child support recovery. The mood of the Utah House of Representatives is overwhelmingly in favor of passing bills to strengthen their ability to eliminate the problem of nonsupport by absent parents.

I think we have an intense commitment in our State and many others, and I think my State does the best job of any State in obtaining the top amount of support for children in our State.

Let me just raise one final issue, and then I would ask that my statement be placed in the record as though delivered.

It seems clear to me that our Government should adopt no policy whatsoever that would drive a wedge between husbands and wives or between parents and their children. However, when a one-parent family exists, Government programs cannot realistically revise those circumstances. So, a strong child support approach and enforcement is important, but it is not the only step in reducing the feminization of poverty that results from these situations.

Now, to confront this larger and quite gloomy picture, I have introduced a legislative package aimed at removing the barriers which prevent one-parent families and women in transition from reaching their potential and achieving self-sufficiency. I won't go into those bills, but two of them are before this committee, and I hope this committee will take some consideration of them. Four of them are before the Labor and Human Resources Committee, and I will file two more within the next month in this particular area. I think they are good bills; I think they are things that will help in this particular area and help resolve some of the conflicts and problems that women have.

But I support this bill. I support the efforts you are making—you Senators here today, and others on the Finance Committee—and I will certainly try to give you the support that I can have as chairman of the Labor Committee, and we will help on the floor, if we can, as well.

[Senator Hatch's prepared statement follows:]

Statement of Senator Orrin Hatch, Utah

I am pleased to join my distinguished colleagues, Senators Hawkins, Kassebaum and Trible in testifying before the Senate Finance Committee in our work to improve federal enforcement of child support requirements.

As chairman of the Committee on Labor and Human Resources, I have actively participated in hearings which examined the root causes of separated or broken families. In our national community, the tragedy of a broken or separated family is a problem which can't be placed on hold, or left for another Congress to ponder and try to solve. Our committee's Nov. 8 hearing entitled "Human Resources Impact on Families and Women in Transition" uncovered important new information. Summarizing the national statistics, we find a rise in the number of women entering and remaining in the workforce; a growing number of single heads of family households; an excalating rate of divorce and separation, with fewer parents having custody of their children with child support payments to assist in the care of them in even a "baseline adequate" manner. Sen. Denton, Chairman of the Subcommittee on Family and Human Services, chaired four days of hearings entitled the "Broken Family" highlighting the facts about troubled families in the here and now, and discovered the following:

In 1983, 59 percent of children born will live with only one parent at some time before they reach the age of 18.

A recent census report found that 8.4 million women nationwide had sole custody of their children in 1981, while less than half had been awarded child support. Of those entitled to payments, only 47 percent received the full baseline amount of $40 per week; another 25 percent got partial payments; 28 percent got nothing.

More than 50 percent of the children in families headed by a single female live in poverty, compared with less than 8 percent in husband-wife families.

This is why the problem we face cannot be overstated. We are facing a family-related problem of neglect by a relatively small number of irresponsible fathers, but a problem if not checked in time can cause serious damage to the moral and physical strength of our nation.

This is why nonsupport by an absent parent cannot be tolerated. We must reaffirm a parent's responsibility for a child, who is otherwise all to vulnerable to the ill wind of desertion, separation or divorce.

How can we best confront these problems? For one, I am here today as an advocate for continuing the current emphasis on state-run and locally administered programs. The responsibility for child support enforcement activities, as well as proof of paternity is best left to the states. We must continue our support of state efforts to enforce court ordered payments. We must allow states the flexibility of determining how they will collect delinquent child support payments. Where the federal government does have a proper role to play is in assisting in funding and monitoring federal technical assistance, and when necessary, to provide direct assistance in locating absent parents.

In short, we should be providing incentives which encourage states in developing more efficient methods of location and enforcement. Meanwhile, states must be allowed to retain the freedom to establish workable programs for their citizens.

Utah led the nation with 21.2 percent of AFDC expenditures recovered. The reason seems to be the organizational structure of the Office of Recovery Services (ORS). Idaho was second in the nation with 17.1 percent and they adopted the same organizational structure as Utah. The percentages are far above the national average of 6.8 percent.

Utah collected in fiscal year 1983 over $13 million and returned to the federal government as its share of ORS collections activity $6,333,781.

Utah collected over $1.5 million in non-AFDC programs, providing an offset to potential public assistance expenditures.

The Utah legislature organized the ORS on a profit basis the same as a private sector collection business. For every dollar of overhead expenditure the ORS must collect two dollars. This induces the incentive to be more aggressive in collections.

This year (1984) the Utah state legislature is considering six separate bills dealing with child support enforcement problems (House bills 13, 14, 15, 16, 17, 18). While some bills are making technical changes in the law others are very substantive. One makes it mandatory for an employer to withhold child support payments from an employee's paycheck; another makes it mandatory for the provider to keep health and dental benefits; and another allows for administration enforcement of child support cases rather than through the courts. The mood of the Utah House of Representatives is overwhelmingly in favor of passing these bills to strengthen their ability to eliminate the problem of nonsupport by absent parents.

In the face of such intense commitment by my state and many others, there's a need for a commensurate commitment by the federal government. I believe the administration's bill will provide just the proper federal-state balance to give states the incentive needed to collect delinquent child support payments. I encourage the Finance Committee, however, to continue the current rate of incentive to states at a 70 percent match. The long-term savings for our nation provided by this short-term budget expenditure is great. This level of support demonstrates our commitment to states that we welcome their efforts to diligently develop workable programs within their own communities.

Let me raise one final issue. It seems clear to me that our government should adopt no policy whatsoever that would drive a wedge between husbands and wives or between parents and their children. However, when a one-parent family exists, government programs cannot realistically reverse these circumstances. We must make sure our programs accept and help the one-parent family by recognizing that the overwhelming number of such families are headed by women who are not receiving the child support payments they were awarded. Stronger child support enforcement is an important, but not the only step in reducing the "feminization of poverty" that results from these situations.

To confront this larger and quite gloomy picture, I have introduced a legislative package aimed at removing the barriers which prevent one-parent families and women in transition from reaching their potential and achieving self-sufficiency. This initiative consists of a series of bills to assist families, particularly single-parent families which comprise a substantial share of our nation's welfare population, to acquire the tools to become independent. These bills include:

S. 2078, the Dependent Care Resources and Referral Act, a bill to amend the Public Health Services Act, creating a block grant to the states for the development of resource and referral programs which will make information available to local communities on types of dependent care available.

S. 2145, the Freedom of the Workplace Act, provides the opportunity for women, particularly those with small children, to work at home without fear of being suffocated by certain provisions of the Fair Labor Standards Act, which currently bans "home work."

S. 2146, the Research, Treatment and Prevention of Substance Abuse Among Women Act, addresses the problem of increase substance abuse among women.

S. 2147, the Pro-Family Demonstration Project, provides demonstration grants to states testing various options for AFDC families where one of the parents is unemployed.

These four bills I have just described have been referred to the Committee on Labor and Human Resources.

In addition, I introduced two bills which have been referred to your committee, namely:

S. 2144, the Homemaker Volunteer Retirement Act, recognizing homemaking as a profession and according it the same status as employment outside the home while encouraging volunteer effort on behalf of the many worthwhile charities, educational, cultural and philanthropic organizations.

S. 2143, the Displaced Homemakers Opportunity Act, addresses the problem of women who have been full-time homemakers for a substantial number of years, and who have not developed or retained job skills demanded for jobs outside of the home, resorting to welfare upon death, divorce or disability of a spouse, by expanding the number of private sector job training opportunities for this special category.

I strongly encourage Senator Dole and other members of this committee to review all these legislative initiatives, and respectfully request that you schedule hearings on this legislative package which is now pending in the Senate Finance Committee.

Again, thank you for this chance to share my views with you today. Passage of child support enforcement legislation and the related legislation I earlier described should be a top priority for the Senate during this or any other year.

The CHAIRMAN. Thank you very much, Senator Hatch. We are looking into the bills pending in our committee. We talked about those during the recess.

Senator HATCH. Thank you. I really appreciate that.

The CHAIRMAN. Right.

Do you have time to wait and hear the panel, Orrin?

Senator HATCH. Sure, I will be glad to.

The CHAIRMAN. Senator Hawkins?

STATEMENT OF HON. PAULA HAWKINS, U.S. SENATOR FROM THE STATE OF FLORIDA

Senator HAWKINS. Mr. Chairman, Senator Long, Senator Moynihan, I appreciate the opportunity to be here with my colleagues today to talk about the improvement of the Federal Child Support Enforcement Act. As we all know, the original act was passed in 1975, and it was significant, because for the first time a Federal law addressed the causes as well as the symptoms of poverty among children.

While we must continue the financial support of social service programs addressing the immediate needs of children living in poverty, I feel you have to step up our efforts to address the causes, and you have to face that ugly fact that at least 80 percent of the families seeking aid for families with dependent children do so because of insufficient child support from the absent parent.

We have all heard about the feminization of poverty, a very real problem for women in this country. There is still much hidden discrimination against women, in terms of jobs, child care, child support, and retirement benefits. Since the 1940's there has been a tremendous increase in the female labor force but no increase in economic security. Women are still making less money than men; women are still by far the ones forced on welfare. It is the children who are the most deeply affected by the feminization of poverty; it is the children who suffer when their mothers' child care needs are not properly met. And it is the children who suffer most from nonpayment of child support.

Congress has made a good effort to address this problem, in 1975 with the child support enforcement program. It required each State, as you know, to enforce child support by tracing fathers through the Social Security System and using income tax offsets and wage withholding. That's a good start, but much more needs to be done.

My own State of Florida recognized the problem and enacted its own child support enforcement legislation in 1974, a year before the passage of the Federal legislation. But reforms are needed now to improve the program and make it more effective.

In 1980, our Florida Office of Child Support Enforcement entered into a contract with the Center for Governmental Responsibility at Holland Law Center at the University of Florida. They undertook a 2-year research project to determine what factors affect the collection of court-ordered child support payments and which methods of enforcement are most effective. The final results will be published next month, and then the center will embark on another 1-year pilot project in 20 Florida cities to implement some of the research findings. The results of the research study should give Florida a better idea of how to improve the State child support enforcement program even more, and it should provide valuable data about which enforcement techniques seem to be the most effective.

Although the final results have not yet been published, a researcher from the Center did travel to Washington, D.C., this November to discuss the preliminary findings with the staff of both the Senate Children's Caucus and the Family Caucus. The center discovered wide discrepancies from county to county regarding enforcement and enforcement techniques.

An alarming discovery was that many of the courts responsible for enforcement were unaware of the variety of enforcement techniques available to them. For example, many of the judges were not aware that Florida State law permitted the courts to impose mandatory wage assignments on non-AFDC as well as AFDC recipients if the absent parent missed two or more payments. Even worse, many judges who were aware of the provision were very reluctant to use it because of the liability the provision imposed on their clerks who administer the depository account. The original language made the clerk of the court personally liable for any checks to the court depository accepted by him. The clerks were, therefore, understandably reluctant to accept support payment except in the form of money orders or certified checks. When this situation was discovered, Florida modified its law to provide that the clerks of the court not be personally liable if the personal check tendered by the employer is returned by the bank This improved and encouraged the use of one of the most effective methods of enforcing child support payment.

A disturbing statistic that emerged from the Florida study that you might like to know is the low percentage of nonwelfare child support cases that are processed. Although the Federal law requires that State child support agencies offer services to custodial parents who are not AFDC recipients, in Florida our non-AFDC caseload is only 4 percent. Only 10,000 of the 267,000 cases in Florida in 1982 were nonwelfare cases. The reason is an economic one. There is a built-in disincentive for spending staff time on nonwelfare cases. But there is no other substantive difference between them; the problems of child support enforcement are common to both welfare and nonwelfare families, and unfortunately the financial benefits of pursuing non-AFDC child support cases are not immediately apparent. However, several studies are now being done that I am sure you will be interested in to determine the cost avoidance aspects of the non-AFDC program.

Ultimately, the real reason for encouraging the enforcement of all child support orders, regardless of the parent's dependence on governmental support, is a matter of childrens' rights and needs to be supported by their parents. We in Congress must pursue our goal of returning the responsibility of caring for children to the parents and not placing the entire burden on the taxpayer.

Thank you very much.

[The prepared statement of Senator Paula Hawkins follows:]

STATEMENT BY SENATOR PAULA HAWKINS

Mr. Chairman, Senator Long, I appreciate the opportunity to testify before the Senate Finance Committee today regarding legislation to improve the federal Child Support Enforcement Act. Passage of the original Act in 1975 was significant because for the first time a federal law addressed the causes as well as the symptoms of poverty among children. While we must continue our financial support of social service programs addressing the immediate needs of children living in poverty, I feel that we must step up our efforts to address the causes. We must face the ugly fact that at least 80 percent of the families seeking Aid for Families with Dependent Children (AFDC) do so because of insufficient child support from the absent parent.

We have all heard much about the "feminization of poverty"—a very real problem for women in this country. There is still much hidden discrimination against women in terms of jobs, child care, child support, and retirement benefits. Since the 1940s there has been a tremendous increase in the female labor force—but no increase in economic security. Women are still making less money than men. Women are still by far the ones forced on welfare.

But it's the children who are most deeply affected by the "feminization of poverty." It's the children who suffer when their mother's childcare needs are not properly met. And it's the children who suffer most from non-payment of child support.

Congress made a good effort to address this problem in 1975 with the Child Support Enforcement Program. This program required each state to enforce child support by tracing fathers through the Social Security system and using income-tax offsets and wage withholding. It was a good start, but much more needed to be done.

My own state of Florida recognized the problem and enacted its own child support enforcement legislation in 1974, a year before passage of the federal legislation. But reforms are needed now to improve this program and make it more effective. In 1980, our Florida Office of Child Support Enforcement entered into a contract with the Center for Governmental Responsibility at Holland Law Center at the University of Florida. They undertook a two year research project to determine what factors affect the collection of court-ordered child support payments and which methods of enforcement are most effective. The final results will be published this February, and then the Center will embark on a one-year pilot project in 20 Florida counties to implement some of the research findings.

The results of the research study should give Florida a bettee idea of how to improve the state child support enforcement program even more. It will also provide valuable data about which enforcement techniques seem to be the most effective.

Although the final research results have not yet been published, a researcher from the Center did travel to Washington, D.C., this November to discuss the preliminary findings with the staff of both the Senate Children's Caucus and Family Caucus. The Center discovered wide discrepancies from county to county regarding enforcement and enforcement techniques. An alarming discovery was that many of the courts responsible for enforcement were unaware of the variety of enforcement techniques available to them. For example, many of the judges were not aware that Florida state law permitted the courts to impose mandatory wage assignment on non-AFDC as well as AFDC recipients if the absent parent missed two or more payments. Even worse, many judges who were aware of the provision were reluctant to use it because of the liability the provision imposed on their clerks who administer the depository account. The original language made the clerk of the court personally liable for any checks to the court depository accepted by him. The clerks were, therefore, understandable reluctant to accept support payment except in the form of money orders or certified checks. When this situation was discovered, Florida modified its law to provide that the clerks of the circuit court not be personally liable if the personal check tendered by the employer is returned by the bank. This improved and encouraged the use of one of the most effective methods of enforcing child support payment.

A disturbing statistic that emerged from the Florida study—as well as national studies on child support enforcement—is the low percentage of non-welfare child support cases that are processed. Although the federal law requires that state child support agencies offer services to custodial parents who are not AFDC recipients, in Florida, our non-AFDC caseload is only 4 percent. Only 10,000 of the 267,000 cases in Florida in 1982 were non-welfare cases. The reason is an economic one. There is a built-in disincentive for spending staff time on non-welfare cases. But there is no other substantive difference between them; the problems of child support enforcement are common to both welfare and non-welfare families. Unfortunately, the financial benefits of pursuing non-AFDC child support cases are not immediately apparent. However, several studies are now being done to determine the cost-avoidance aspects of the non-AFDC program.

Ultimately, the real reason for encouraging the enforcement of all child support orders, regardless of the parent's dependence on governmental support is a matter of children's right and need to be supported by their parents. We in Congress must pursue our goal of returning the responsibility of caring for children to the parents.

The Chairman. Thank you.

Paul, I guess Nancy has a commitment at 2:30 p.m.

Senator Trible. I will happily yield to my colleague. Nancy, go ahead, please.

STATEMENT OF HON. NANCY KASSEBAUM, U.S. SENATOR FROM THE STATE OF KANSAS

Senator Kassebaum. Thank you very much, Mr. Chairman. First, I would just like to commend you for focusing attention on this area of improving child support enforcement. It is one that I think, as shown by the testimony that has already been given, is of topmost importance. I know Senator Trible has worked very hard on this, as has Senator Armstrong and many others. Certainly, Senator Long has had a commitment for years to improving child support enforcement. I welcome this opportunity to join in the panel today to endorse efforts to strengthen our current system of enforcement.

As a cosponsor of both the Economic Equity Act and the child support measure introduced by Senator Armstrong along with several other colleagues, I believe that effective means are available to accomplish this goal. This is an area where there is a pressing need for action and where inaction spells continued deprivation for millions of American children.

In 1981, more than half of the 4 million custodial parents, predominately mothers, with child support orders failed to receive the full payments due. The absence of child support income has forced substantial numbers of these single-parent families onto public assistance rolls at enormous cost to the Federal and State governments

Although the budgetary implications of this situation are of concern, they are not in fact the primary reason I feel so strongly that corrective action is needed. I find it more disturbing to consider that somewhere along the line so many have lost a sense of responsibility for the very essence of parenthood, the care of dependent children. The decision to become a parent entails a long-term emotional, social, and financial commitment which cannot be lightly disregarded. As a general matter, I find it disconcerting to observe a more ready willingness to abandon personal responsibilities on the assumption that governmental generosity will step in and fill the vacuum. It is particularly worrisome when such thinking leads to the relinquishment of parental responsibility, irrespective of one's private means to assume those obligations.

The child support enforcement system set into place nearly 10 years ago has accomplished a great deal, but it has not been able to keep pace with the need for its services. This is particularly true for families that do not qualify for AFDC support, a group which is deserving of greater program emphasis.

An effective response entails several elements, I think. First, the Federal Government must make it clear that the status quo is unacceptable and that efforts to collect court-ordered child support payments will be vigorously pursued.

The recent visibility of child support enforcement efforts is encouraging; yet, the ultimate success of any measure we enact will rely heavily on our continued attention and on adequate levels of support for State implementation efforts.

It is also essential that States undertake activities which have proven successful in the past, just as Senator Hawkins pointed out with Florida's efforts. I strongly support the initiation of mandatory wage withholding when child support payments are in arrears. The ability to collect past-due support from Federal income tax refunds has also been beneficial. In the State of Kansas, for example, the Federal tax refund offset program was directly responsible for an increase of nearly 20 percent in the average number of collections between 1981 and 1982. This authority should be extended to State tax refunds. Streamlined procedures for establishing and reinforcing support orders are also an important element of pending legislation.

Finally, there is a need to place greater emphasis on program performance. The replacement of the current 12-percent incentive payment for a more targeted system could have the effect of improving the current imbalance between AFDC and non-AFDC collections and of enhancing interstate collection efforts. I believe such a system would operate most effectively if States were in a position to estimate with some certainty the payments which could be expected for particular performance levels. Consequently, I believe a statutory formula would be preferable to the incentive program envisioned by S. 1691.

Turning from child support enforcement for a moment, I would like to encourage the committee to address in some way the issue of visitation by absent parents. Problems with visitation, troubling as they may be, do not absolve an absent parent from financial responsibility for children. The welfare of the children comes first, and there is no reason to delay support enforcement efforts simply because related issues continue to be troublesome. Nevertheless, I believe there is a great deal of truth in the House committee report statement that, "unless visitation rights and responsibilities are enforced, it will remain extremely difficult to enforce financial support obligations in cases where visitation is an issue."

Thank you very much, Mr. Chairman, for allowing me to testify, and I particularly appreciate Senator Trible's allowing me to speak before him.

[Senator Kassebaum's prepared statement follows:]

STATEMENT OF SENATOR NANCY LANDON KASSEBAUM

Washington, D.C.—January 24, 1984—Noting that abandonment of child support responsibilities by delinquent parents has increased the financial burden on federal and state governments, Senator Nancy Landon Kassebaum (R-Kans.) today endorsed a toughening-up of child support enforcement.

"The absence of reliable child support income has forced substantial numbers of single-parent families onto public assistance rolls at enormous cost to the federal and state governments," Kassebaum testified before the Senate Finance Committee.

"I find it disconcerting to observe a more ready willingness to abandon personal responsibilities on the assumption that governmental generosity will step in to fill the vacuum. It is particularly worrisome when such thinking leads to the relinquishment of parental responsibilities—irrespective of one's private means to assume those obligations," she added.

Kassebaum testified in support of a bill introduced by Senator William Armstrong (R-Colo.) that requires states to stiffen their enforcement of child support requirements. Among the bill's features:

It would require states to initiate mandatory wage withholding in cases where support payments are two or more months in arrears.

It would require that states deduct past-due support payments from any state income tax refunds due to the delinquent parent in cases where the family receives Aid for Families with Dependent Children (as is currently done with federal tax refunds).

It would require states to establish administrative mechanisms to speed up the enforcement of child support orders.

Kassebaum noted that more stringent programs at the federal level, such as the withholding of federal tax refunds, increased by nearly 20 percent the average number of collections in Kansas in 1981 and 1982.

"Child support enforcement is an area where there is a pressing need for further action and where inaction spells continued deprivation for millions of American children," Kassebaum said.

The CHAIRMAN. I know Senator Kassebaum has a commitment. Senator Hatch may have, too. I don't want to detain anyone. Are there any questions of Senator Hatch or Senator Kassebaum or Senator Hawkins?

[No response.]

All right.

I do have a couple of questions about Florida's program.

Senator LONG. Let me just thank them for the very kind statements that they have made here.

The **Chairman**. I think we all recognized, Senator Long, in your absence, that we owe you a great debt. We realize we would not be here today if you had not initiated this program in 1975. That's been the view of every witness. We certainly appreciate your leadership.

Senator Trible, you introduced one of the first bills, and I think you have in your bill the very thing that Senator Kassebaum mentioned, immediate wage withholding. Do you want to proceed with your statement?

STATEMENT OF HON. PAUL S. TRIBLE, JR., U.S. SENATOR FROM THE STATE OF VIRGINIA

Senator **Trible**. Thank you, Mr. Chairman.

Mr. Chairman, our Nation can no longer tolerate the cost of our current system of child support. It perpetuates a culture of poverty, it leads to the neglect of defenseless children, and it fosters disrespect for the law. It is time that we do something about it.

A recently published Census Bureau report showed that 28 percent of the mothers owed child support during 1981 received nothing, and over half of the mothers owed child support received less than they were due. That means that children in more than 4 million homes across our land were cheated and shortchanged. It is nothing less than theft from innocent children.

For the mothers involved, it was economic catastrophe. We now find that while some 14 percent of our population is said to live below the poverty level, among single mothers raising children that figure more than doubles, to 35 percent.

Some of you will recall that during the depths of the depression, the Great Depression, President Roosevelt spoke about one-third of our Nation being ill-housed, ill-clad, and ill-fed. We confront a comparable situation in female-headed single-parent households today. Yet, according to a 1982 Stanford University study, most noncustodial parents who are not meeting their responsibilities are capable of doing so. Indeed they are capable of paying significantly more than the amounts awarded.

Quite clearly, Mr. Chairman, the present system of child support collection is ineffective and costly. In nearly all the cases, the mother lacks either the time or the money to keep going back to court to enforce something that is legally owed. And when the mother returns to court, she faces roadblocks and frustrations. The time has come—indeed, the time is long overdue—for a new system of enforcing what is right, legal, and a moral obligation. And in my judgment that includes withholding of child support payments from wages.

I want to urge this committee especially to consider seriously implementing the immediate wage deduction provisions of the bill that I have introduced, a bill that has been cosponsored by several of my colleagues. Immediate wage deductions will insure that there is no delay in child support payments. Given the economic condition of many single parents, even a short delay could result and does result in severe hardship

Moreover, since the percentage of nonpayment and partial payments is so high, the imposition of a system of withholding when the payment is in arrears would be no more of an administrative burden than immediately withholding those dollars, and that would insure timely payment. Indeed, the identification and pursuit of nonpaying parents alone could well be far more cumbersome.

So, Mr. Chairman, I thank you for the few moments here today, and I thank you for your attention to this important issue. Our Nation has no more important duty than protecting the family bond. Our laws must assert every parent's responsibility to support his or her children, and I would urge this committee to act promptly and decisively to help attain those goals.

[Senator Trible's prepared statement follows:]

STATEMENT OF SENATOR PAUL TRIBLE, JR.

Mr. Chairman: Thank you for providing me with this opportunity to testify before the Finance Committee on an issue which is of great personal interest to me—the issue of non-payment of child support. I am pleased to join my colleagues, Senator Kassebaum and Senator Hawkins, both of whom have been articulate advocates for reforms in this area.

Mr. Chairman, our nation can no longer tolerate the costs of our current system of child support. It perpetuates a culture of poverty, leads to the neglect of defenseless children, and fosters disrespect for the law.

A recently published Census Bureau report showed that 28 percent of the mothers owed child support during 1981 received not one cent during the entire year; and half the women due support did not receive the full amount they were owed. That means that children in more than four million homes across our land are being short-changed and cheated. This is nothing less than theft from innocent children.

For the mothers involved it is an economic castastrophe. It has contributed to the "feminization of poverty." We now find that some 14 percent of the population-at-large falls below the poverty line. Among single mothers caring for children, the figure is more than double to 35 percent.

During the depths of the depression, President Roosevelt spoke of one-third of a nation being ill-housed, ill-clad, and ill-fed. We confront a comparable situation in female-headed, single-parent households today.

Yet, according to a 1982 Stanford University study, most non-custodial parents who are not meeting their child support obligations are capable of doing so, and, indeed are capable of paying significantly more than the amounts awarded.

Quite clearly, the present system of child support collection is costly and ineffective. In nearly all cases, the mother lacks either the time or the money to go back to court and enforce what is legally due her and her children. When she does go back to court, she faces delays and roadblocks. The time has come for a new system of enforcing what is already a legal and moral obligation, and that includes withholding of child support payments from wages.

I want to urge the committee to seriously consider implementing the immediate wage deduction which is called for in my bill, S. 1777. Immediate wage deductions will ensure that there is no delay in child support payments. Given the economic condition of many single parents, even a short delay could result in severe hardship.

In addition, since the percentage of non-payment and partial payments is so high, imposition of a system of withholding when the payment is in arrears would be no more of an administrative burden than immediate withholding which would ensure timely payments. Indeed, the identification and pursuit of non-paying parents alone would be more cumbersome.

Mr. Chairman, our nation has no more important duty than protecting the family bond. Our laws must assert every parents responsibility to support his or her children. I would urge the committee to act promptly to attain these goals.

The CHAIRMAN. Could I just ask you, Senator Trible, in your bill it would be immediate withholding—is that correct?

Senator TRIBLE. It would.

The CHAIRMAN. Would there be an opportunity or could there be some way devised where there was at least a chance given the non-custodial parent or the one not paying support for voluntary compliance before withholding was instituted?

Senator **Trible**. The bill as I would envision it, and the bill that I have put forward for your consideration, would require immediate wage deduction. The reason for that, primarily, is this: Today we know that more than half the cases have parents not honoring their responsibility. So I think that in order to insure full payment across the board, we ought to have immediate wage deduction.

Now, for those who pay on a timely basis, faithfully, one might well observe that perhaps that is an unreasonable burden. But I think we have to balance the interest of that faithful parent against the interest of the innocent child who today in substantial numbers is receiving nothing, or at least decidedly less than they deserve, and, moreover, the interest of the struggling single parent who is responsible for the day-to-day upkeep of that child. I think if you weigh those competing interests, then we must come down on the side of the innocent child and the struggling single parent.

The **Chairman**. Do you provide any mechanism in your bill that allows withholding to be terminated if voluntary compliance is insured? Or is the withholding permanent once it is instituted?

Senator **Trible**. No; the provisions of this bill would require wage deduction at the outset and for all times, as long as that responsibility was on the absent parent.

The reason for that, in addition to the points I have raised, is that it probably would be far less burdensome and costly to administer an across-the-board withholding than it would to try to decide who is paying on a timely basis, who is meeting their responsibilities, and who is not. So I think a number of arguments can be advanced for that.

The **Chairman**. Thank you very much.

Senator Hawkins, what has been the response of your constituents in Florida to your active work in this legislation? Have you met with the Florida State child support agency? Do they endorse your efforts?

Senator **Hawkins**. Yes; in fact, they like Senator Trible's immediate action, if we could do that. They just realized reality.

I would also like to just briefly mention that Florida does not have a State income tax. So, when you talk about deducting from State taxes, like is mentioned in several of the bills, I don't know what other States don't but we do not have that. Maybe that is why 25 people an hour are moving to Florida to make it their permanent home. [Laughter.]

But that would not work in Florida.

Also, the cost of the burden on the employer for collecting the delinquent payment has to be paid by the parent that is delinquent. The employer is reimbursed for his trouble, so the employers, therefore, are willing to work with us in this endeavor by the State.

I hope to see this new 1-year study go forward, covering 20 counties, but it is alarming how enforcement varies from county to county depending on the judges' unawareness of the law. Maybe that will be cleared up, but the bottom line, as we have all said, has to be addressed.

I am also a little worried about visitation being part of this bill, because in my work with missing children, which has been extensive and has received a lot of national attention, I am more aware than ever that the argument between the parents is usually settled by the judge and that is what we should enforce. But more and more children are disappearing. We have had three cases last week in Florida where the child had been kidnaped be the parent who did not have custody He also was very delinquent in his payments, and he could visit. So there are a lot of complexities to this when you attach the issues of child support and visitation rights with the children. It may not be in the best interest of the child to have a visit from that parent who is angry at the moment and may take them to another city. It is a very big problem in the United States.

The **Chairman**. I know it is. In fact, I think I read something in U.S.A. Today about this; you were commenting on the scope of the problem.

Senator Long, do you have questions of either Senator Trible or Senator Hawkins?

Senator **Long**. No; I just want to thank both of them for very good statements. I support your position and am pleased to work with you on it.

Senator **Hawkins**. We appreciate your leadership.

The **Chairman**. Senator Grassley?

Senator **Grassley**. You asked the questions of the Senators that I was going to ask.

The **Chairman**. Oh, I didn't mean to do that. [Laughter.]

Senator **Grassley**. But I would ask Congresswoman Roukema if her State administrators support the concept of the legislation that we have before us.

Mrs. **Roukema**. Yes, they do in New Jersey, and it is my understanding that the National Association of Child Support Administrators also supports this legislation.

The **Chairman**. Senator Durenberger?

Senator **Durenberger**. No questions, just compliments, Mr. Chairman. Also, I have an opening statement that I would appreciate be made a part of the record.

If I have to leave before she gets here, I would like to especially compliment Barbara Kennelly for her leadership as well.

The **Chairman**. She was here earlier.

Senator **Durenberger**. She has been here? All right.

Senator **Long**. Mr. Chairman, if I might interrupt one moment, I just wanted to say to the witnesses that it is really music to my ears to hear these magnificent and impressive statements that I have heard here today. And I want to thank Senator Durenberger and Senator Bradley for sponsoring this legislation, and also you, Mr. Chairman, for all you have done, and also Senator Grassley, for his efforts in this area; because, to me, in this area, it has been a very long and tedious task.

I can recall when we first got started in getting the Federal Government involved in child support. We had to fight the Social Security Administration. They didn't want to tell us what the father's social security number was so we could go and find him. Then, when we got his social security number, we had to go to the IRS to get his address. The IRS thought that as long as they had collected the taxes, they had done their job. They contended the father had the right of privacy. Here we were, having to pay to support his children with public funds. The children were suffering, and the mother was suffering, and this man was just going about having a great good time and not paying anything to help support his children. So this committee backed this effort, and we finally made the IRS tell us where the father was.

Then the district attorneys didn't have the money in their budgets to do a job finding the father and collecting child support, so we had to find money to make it worth their while to get involved in this matter. But even then, even to this day, you know, the department has been unwilling to have the Federal Government assume the burden of going after these fathers. They are for collecting child support, but let somebody else do it. So we had to wind up with the States and the district attorneys doing the collecting. If we had made it worth their while and made it profitable for them to do it, then they would do it; they would get enthusiastic about it.

Then we found we still had a problem with the military. They thought that one way to get soldiers for the service was that the guy could escape his child support responsibility; once he was in the military, he would not have to support his children. So we had to win a war with the Army and the Navy and the Air Force to make them withhold child support from their pay so that their children would get the money from them. Now, at long last, the Federal Government from the President on down is unified in this fight

I was pleased to be at the White House when the President signed the order for Child Support Enforcement Month, and he was strongly for that. I hope the military isn't going to go to war with their Commander in Chief now. [Laughter.]

Senator LONG. Eventually we finally began to get enough forces mustered to where, at long last, it looks as though we are going to succeed in putting all the powers of this government on the side of the children, which means usually on the side of the mother as well. That has been a long fight.

I was a poverty lawyer back before the government started paying poverty lawyers I was in poverty myself at that point, a young lawyer just hanging a shingle out, and I had people come in seeking to have me represent them on both sides; in one case, I would represent a father seeking to avoid paying; in another, I would represent a mother seeking to obtain support. And to me, there was absolutely no justice in all of this; the whole system was set against the children. All their father had to do was just leave town, and you couldn't get anything for the mother and the children. That was the end of it.

We then proceeded to put the burden on the taxpayer; but eventually, the taxpayers couldn't pay any more, they had all the burden on them they could take. And at long last we finally said, well, that's not working either; we are going to have to make the fathers pay. And though all the witnesses hadn't testified for it, I think we all recognized that if we do what we ought to do, we have one strong ultimate weapon, we have the power to put that father in jail if he won't pay child support. You reach the point where some people will make the argument to you that you can't squeeze blood out of a turnip. That's true, you can't squeeze blood out of a turnip; but you can sure put that turnip in jail. [Laughter.]

Senator **Long**. And when the turnip is in jail, suddenly the money starts showing up; it comes from places you would least expect. The money shows up when the turnip is in jail.

Thank you very much.

The **Chairman**. Thank you very much, Senator Long.

Are there any other questions?

[No response.]

The **Chairman**. We appreciate very much your testimony. What we hope to do in the committee, as we have done in the past, is to try to get all of the interested parties together at a staff level to see if we can work out any differences there might be, because I know there are some different approaches. Senator Durenberger and Senator Bradley today introduced the House version. That may go further in some areas than many would like to go; maybe not, but we hope to be able to work in that fashion. So we will be in touch with your offices.

Senator **Trible**. Mr. Chairman, if I might just add one additional word.

The **Chairman**. Surely.

Senator **Trible**. I want to applaud the efforts of our colleague from Louisiana through the years in leading this battle. But also, I want to recognize the efforts of Marge Roukema, the distinguished Congresswoman from New Jersey. She is my former colleague in the House of Representatives, but she has led this charge in the House of Representatives, and I think she has gone a long way in stirring the conscience of that body. And as you know, that is not an easy task, Mr. Chairman. [Laughter.]

Mrs. **Roukema**. Thank you, Senator.

The **Chairman**. Well, Marge, we are happy to have you here.

Mrs. **Roukema**. Thank you.

The **Chairman**. We would be pleased to have your testimony now. You may include your entire statement in the record and summarize, if you will. We are very happy that you are here.

STATEMENT OF HON. MARGE ROUKEMA, U.S. REPRESENTATIVE FROM THE STATE OF NEW JERSEY

Mrs. **Roukema**. Senator Dole, thank you very much.

Senator Long, I think I can hardly improve upon your narrative. Senator Grassley, Durenberger, and of course my colleague from New Jersey, Senator Bradley, whom I hope will be here shortly, I do thank you for this opportunity to testify.

As you probably know—or may not; I am not sure—I first introduced my bill in the House with a series of 1-minute speeches just prior to Father's Day last year. I think I learned something from Mr. Long, perhaps, about good public relations.

But in any event, at the time, which was just 5 short months before its ultimate passage, unanimously—422 to 0—in the House, it was embroiled in controversy. There were a lot of controversial issues and clouded misunderstandings about the nature of the bill. And I guess I can simply say that, in the same way that the passage of that bill in the House represented hallmark legislation and a change of opinion among House Members, I would hope that that same experience is followed through in the Senate.

Admittedly, gender-gap politics had something to do with it. Our timing, I think, was exquisite in that respect. But I think, as Senator Long and everyone of you on the panel who has studied this issue knows—and I won't go into the statistics, because you know them very well and they are in my full testimony—the statistics make a compelling case. And once looking at the growing nature of the problem, I think the injustices became so clear that the Members of the House concluded that this was something that demanded immediate and firm attention and genuine reform.

I think there is no question but that, aside from the psychological and material damage done to women and children—and, by the way, if your experience is like mine, grandparents, who wrote in large numbers to say that they were thanking God for people like me and other people in the House, because they were using their meager earnings to keep their children off welfare. Well, put all that together, and it became apparent that the American taxpayers are paying not only welfare costs but administrative costs and costs of law enforcement into the area of billions of dollars annually, because fathers, custodial parents, were not paying their legal obligations.

Therefore, I want to be here today, not only because I know you are going to pass a bill and because some sterling legislation has already been introduced, but also because I want to share with you our experience and perhaps convince you the wisdom of not only the House bill but a couple of ways in which it can be improved and indeed must be protected.

There is a universal coverage provision in the House bill. By that, I mean to indicate that we make no distinction between the court decrees that are applied to welfare families and as they are applied to nonwelfare families. This was a particular issue that I personally, along with some of my Republican colleagues in the House, brought to the attention of the President. And with the help of Secretary Heckler, we were able to convince him last June that this was an essential element of reform. Many families living on the edge who are not on welfare rolls fall onto the welfare rolls, or at least partially—food stamp assistance—because of nonsupport payments for children. Therefore, I think it is an essential element of any legislation that comes out of the House.

Second, and this is perhaps the one that I feel most strongly about, and the aspect that I would hope to at least get you to focus your attention on, is the nature of the mandatory wage-withholding provision. We require mandatory wage withholding. There is a 30-day delinquency period with an additional notification period in the House bill I would urge your attention to the implications of permitting delinquency. Remember, we are talking about a legal court decree. We are saying that the States should apply and honor and recognize and be reciprocal in complying with the legal court decrees of the several States. To then allow delinquency not only puts many families in economic peril but also requires a continuance of law enforcement agencies and bureaucracies and administrative procedures that could be eliminated, streamlined, tailored, under a mandatory immediate wage withholding.

I think, here, the National Council of State Child Support Enforcement Administrators, to whom Senator Dole earlier referred, you will find that they give their support to that.

In addition, Senator Long, and this is an area where you have taken the leadership—that is, in the area of State-skipping, where parents just move to another State to avoid paying the court decrees—mandatory withholding would infinitely simplify the problems that are attendant with State-skipping and go a long way to creating a truly national enforcement system that is the essence of a good reform.

I think it was also pointed out that it sounds easy and simple and fair to say a 30-day delinquency. But the fact of the matter is that 30 days before enforcement takes place stretches out easily to 2, 3, and 4 months. And here I think it may be helpful to you to look at the experience of at least two States that we know of, California and Arizona, where, although they have a 30-day delinquency period, they do not permit a notification period. Your bill and our bill in the House permits a notification period, which, effectively, makes it 60 days. California and Arizona make the 30-day period the notification period, and it is timed to the date of the court decree. And I think that is sensible. I would prefer no delinquency period; but, if there must be a notification period, then I think we should follow the experience of California and Arizona. Michigan, on the other hand, has moved back from a 60-day notification to 30-day, and they are hopeful that they will go to automatic mandatory withholding.

The two final points that I would like to make, and I will try to be brief: I can't stress how important it is that this follow along with meaningful bonuses and penalties for the States. The States need help in terms of the administrative costs and absorbing them, and I think they should be rewarded when they have good compliance records. So, I think you must focus, I would hope, on making those penalties and bonuses meaningful so that there is a means of reciprocity and compliance enforcement, and that the States—like New Jersey, California, and others—that have good laws and good records are not hobbled in their efforts because other States are not cooperating.

Finally, I would say that we found in our deliberations in the House that, because of certain technical problems with the dates that legislatures go into sessions—in some States legislatures meet only every other year—you really need an 18-month leadtime. Our bill has an enactment date of October 1, 1985; that is, no later than October 1, 1985. So, if you can do a little arithmetic here, together we recognize that the Senate will have to act by April of this year if we are to stay on that timetable. If we slip beyond April, we may be finding that we will effectively be postponing any meaningful action for up to another 18 months.

The CHAIRMAN. Well, we hope to act very quickly.

Mrs. ROUKEMA. Thank you, Senator.

The CHAIRMAN. Thank you very much.

[Representative Roukema's prepared statement follows:]

TESTIMONY OF CONGRESSWOMAN MARGE ROUKEMA

Mr. Chairman, I commend you and the Committee for holding these hearings. Your concern for the growing shameful problem of parents who financially abandon their children and refuse to pay legal orders for child support is welcomed by millions of families across the country. It is my understanding that this Committee will be recommending to the Senate a bill to address the need for a national child support enforcement act and one which recognizes that the present system of enforcement is grossly inadequate.

To summarize quickly, the problem, child support delinquency has reached epidemic proportions, and is growing in all economic brackets. Recent Census Bureau figures show that 8.4 million women have custody of minor children. Of these women 4 million were awarded child support, but only 47 percent (1.9 million) received the full amount due them. The remaining 53 percent received little or no support at all. This is a national disgrace. Legal obligations are mocked. Children suffer material and emotional deprivation and all family members, often including grandparents, are caught in a revolving door of justice which is degrading and does not work. Everyone involved pays with increased welfare costs, legal fees and the added expense to administer the bureaucracy.

On November 16, 1983, the House of Representatives enacted H.R. 4325, the "Child Support Enforcement Amendments of 1983" by a unanimous vote of 422-0. This hallmark legislation represents a sea change in the thinking of that body. It put the federal government firmly on record that child support is not a voluntary commitment, but a legal as well as moral obligation. This legislation says that the United States will not turn its back on the children nor look the other way when families need help. While this bill does not contain all that could have been achieved, it is far more than just a pretext of reform.

I have long supported corrective legislation to address four basic areas of reform. First mandatory withholding upon the issuance of a court or administrative order. Second, federal law must establish credible bonuses and penalties for the states to insure compliance and develop a reciprocal national enforcement apparatus. Third, we must develop a system which provides universal coverage applying to AFDC and self supporting families alike. Finally, Congress should create a system which can be implemented quickly and be effective and efficient for the states to administer.

While the use of mandatory wage withholding for the collection of child support may seem revolutionary to some, it has actually been found to be both effective and efficient. It would give the nation's child support agencies a common thread in the method of collecting child support payments. Recognition of this as a legal obligation is essential to the construction of an effective inter- and intra-state collection system. It places everyone owing child support in the same "boat," thus not creating a stigma for the obligor parent. It would be no more complicated than other current wage deductions. In essence it would be clean, lean, effective and efficient without creating any additional bureaucracies. District of Columbia Judge Gladys Kessler's comments in a recent Washington Post article are typical of legal and enforcement officers opinions nationwide that "wage assignments are the most reliable and in a real sense the most painless method of ensuring the payment of child support on a continuing basis. Our new program gives those parents who are liable for support full notice and thoroughly protects their rights." This is my conviction based on an intensive study of the problems and the practices among the states.

For example, the State of Michigan enacted legislation in July of 1983 where child support would be automatically deducted after a 60 day delinquency period. Michigan's legislation acknowledges the wisdom of reducing arrearage and notification periods by moving to a 30 day system in January of 1985.

When delinquency and arrearage is permitted, it not only defies the legal rights of the children, but also creates a cumbersome administrative and enforcement burden for the agencies and enforcement administrators. The House passed bill allows for 30 day delinquency and a 30 day notification period before withholding is initiated. This is not right for the children of this country who cannot wait 60 days and more to be fed, clothes or to be sheltered.

Here the experiences of California and Arizona are instructive. After the initial delinquency period has elapsed, the employer of the non-custodial parent is notified to begin to withhold that person's wages for the payment of child support. This automatic notification process is written into the original court order and has not been contested in either state. It has gotten the process rolling faster, thereby getting money to the families in a more timely fashion and facilitating administration of the program. Should this body consider moving the delinquency period back to 60 days with a period of notification this body would damage the effectiveness of the legislation. The illusion of reform would be greater than the reality.

I would urge this body in the strongest way possible to adopt a wage withholding system from the time that the court decree is issued. The minimal acceptable compromise would be a 30 day delinquency program now enforced in California and Arizona.

Second, any meaningful needs credible bonuses and penalties which the Department of Health and Human Services can use to enforce compliance by the states. In the past we were operating under a system that had no "teeth." The states were able to operate their child support agencies as they saw fit, and there were no enforcable penalties to ensure compliance. This resulted in only 6 states responsible for 88% of the AFDC collections collected and 6 states responsible for 71% of the non-AFDC collections. I am pleased to report that New Jersey was one of the six states responsible for the non-AFDC collections. Under the House-passed bill if a state is in non-compliance after a review period they would be penalized 2% of their AFDC matching funds. This penalty would increase to 3% and 5% if a state continued to be in non-compliance. States with a good collection record would be eligible for bonus monies of up to 28%. These monies would be given to states for good collection of both AFDC and non-AFDC cases as well as for their collection for interstate cases. Currently reciprocity between states is non-existent. Consequences of this have been that it has become far too easy for a person to move from state to state to avoid paying child support. It is also not uncommon for a custodial parent to have two or more court orders for child support in different states. Under the new provisions both the state collecting and the state paying would be eligible for incentive money. Senator Long had the insight in 1975 to see the problem of "state skipping" and he should be commended for his untiring efforts in getting our current system enacted. This legislation will improve state compliance and go a long way toward establishment of a workable national enforcement period.

Third, this reform measure should end the discrimination between AFDC and non-AFDC cases. Current states tend to collect their AFDC cases before they collect their non-AFDC cases. The rationale for doing this is that states are eligible for incentive monies from the government to do so. Under the House version, states would collect child support for both AFDC and self-supporting families alike, and as I said before the states would be rewarded equally for these collections through bonuses. Often families who had exhausted their financial means in court and legal fees had to resort to the welfare role to care for the basic need of their children. The taxpayers are absorbing the costs of delinquent parents. This is clearly not right and is a point I talked directly to the President about and gained his agreement for prior to the introduction of the Administration's bill on July 13, 1983. Child support is a legal obligation for all and the changes in any reform measure must ensure that this principle will be upheld.

Lastly, we need to create a system that is easy to enforce. It should use existing state mechanisms, establish no new bureaucracies and place no further strains on our already overcrowded courts dockets. The House passed bill does this. The enactment schedule of any child support reform is critically important. I would ask this Committee to focus its attention on this matter as well. The House bill calls for enactment of this legislation by October 1, 1985. Because many state legislatures do not meet annually, and due to the fact that some of the states may need to make revisions in their current laws to enact and enforce mandatory wage withholding and other provisions of the House bill, we should provide states at least 18 months to fully implement and meet the requirements of our legislation by October 1985, the Senate must pass legislation no later than April 1984. If the Senate does not act enforcement could be delayed another 18 months beyond 198[illegible].

Mr. Chairman, a system of mandatory deduction of wages would relieve crowded court dockets, use existing state agencies more productively, provide universal coverage and keep many families off welfare. Most importantly, it would guarantee as completely as possible that no child is held hostage by inadequate economic support. Child support is not a voluntary commitment. Denying a child that support he or she needs is an injustice that can no longer be endured.

The **Chairman**. Bill, do you have any questions of the New Jersey Representative here?

Senator **Bradley**. Well, Mr. Chairman, I thank you, and I just want to compliment Congresswoman Roukema for her leadership on this issue on the House side. I think she has been a driving force over there, in particular in the issue that she highlighted, and her concerns that non-AFDC absent parents be targeted in our efforts as well. I think it is farsighted.

I would simply like to ask her to restate for the committee why she thinks that there should be no waiting period for withholding. I tend to agree with her, and I think that her experience in this area would give us some reason to ponder what she said. I think it is a very good point. By the time you have a waiting period, whether it be 30 days or even longer, you are talking about families, 90 percent of whom are headed by women, trying to get by without any child support.

Mrs. **Roukema**. That is correct. And you can easily slip because of enforcement problems, easily slip to several months. And then, by that time, you have families that have slipped onto the welfare rolls, if not totally then needing partial public assistance in the form of food stamps.

There is another very important issue: I am totally convinced that the delinquency or arrearage provision requires an enormous bureaucracy in the several States to enforce compliance. It also puts a greater burden on the courts and the probation officers who are responsible for tracking down the delinquent parents. So, I think it is just cleaner, leaner, and more efficient to have the automatic withholding.

Senator **Bradley**. And then, just one last question on the State-skipping. What would be your suggestion for the committee in looking at that? Do you have in mind certain specific provisions that could get at the problem of State-skipping?

Mrs. **Roukema**. I believe that the State-skipping attention that your bill and the House bill, and to a large extent the administration bill gives, hits on the essential problem there, which is to have a meaningful enforcement mechanism through the Department of Health and Human Services, based on the penalties and incentive bonus programs. But I don't think it can be discretionary. I think there has to be a mandatory program and one where the powers vested in the Secretary of Health and Human Services are meaningful enough to entice the States to understand the wisdom of their cooperation and the necessity for their cooperation.

Senator **Bradley**. Would it not also imply up-to-date information systems in States and here in Washington?

Mrs. **Roukema**. Yes; I suppose that it would. I don't know if they need be elaborate. My bill is predicated upon the assumption that the existing 4-D agencies that should have been established in each State are sufficient agencies to handle that exchange of information.

Senator **Bradley**. Thank you very much, Mr. Chairman. Let me just say, I think the committee can benefit a great deal from Congresswoman Roukema's testimony.

Mrs. **Roukema**. Thank you.

The **Chairman**. Right.

I'm sure there are other questions of Congresswoman Roukema, but maybe we could hear from the Secretary first. Marge, do you have a little time?

Mrs. **Roukema**. A little time.

Senator **Durenberger**. I don't have any questions.

The **Chairman**. Do you have any questions of Marge?

Senator **Grassley**. I just wanted to make the observation that progress in the Senate probably parallels the progress you noticed in the House. It started out very slowly, but when people started pondering what the legislation is all about and the problems, it really gained support very quickly. I have noticed a great change in just the last 2 months since we adjourned last November

Mrs. **Roukema**. I am glad to hear that, Senator.

The **Chairman**. Senator Long?

Senator **Long**. I was just trying to think in terms of who should have to bear the cost of legal proceedings where the case is not a welfare case. It occurs to me that by rights it ought to have to be the delinquent father

Mrs. **Roukema**. Yes.

Senator **Long**. My thought is that each State should have the power to provide by their law, that wherever the district attorney has to pursue the delinquent father to collect from him, that the court would add on top of the child support amount an amount over and above that, so that it wouldn't come out of what would go to the children and it wouldn't come out of what the taxpayer pays. That extra amount on top of the child support would help bear the cost of the legal proceedings to obtain compliance

I compare that to the way you sign a note down at the bank. You know, the bankers are pretty smart about how they get their money. It says there in the fine print that if the bank has to sue you to get the money, you have to pay the court costs plus a reasonable attorney's fee, not to exceed, let's say, 20-percent. If you owe the money and are subject to having to pay it, it is wise to go ahead and pay it without being sued. Because otherwise, you are going to have to pay the court costs and the lawyer's fee in addition to what you owe.

I think we are making progress toward the day when making child support payments will be the thing to do. You know, it won't cost the government anything; it will just get to be the thing to do; everybody expects the father to do it, and nobody will applaud him for not doing it. They will all look at him with scorn if he does not do this, including other fathers. When the other fathers are all paying, they won't have any sympathy for the fellow who is not paying.

Mrs. **Roukema**. I agree with you totally, Senator.

The **Chairman**. Thank you very much. We appreciate your testimony. And if you will push the Pension Equity Act over there, we will get this taken care of over here. [Laughter.]

Mrs. **Roukema**. Oh, I will be glad to do that.

The **Chairman**. OK.

Mrs. **Roukema**. Thank you.

The **Chairman**. We are very pleased to have today Secretary Margaret Heckler, who first testified on the subject of child support on September 15 before Senator Armstrong's subcommittee.

We are very pleased to have you here again, to demonstrate your commitment and, I am sure, urging us to move quickly.

We will be very pleased to hear your statement, then we will open it up for questions. We are happy to have you here.

STATEMENT OF HON. MARGARET M. HECKLER, SECRETARY, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Secretary **Heckler**. Thank you very much, Mr. Chairman and members of the committee.

It is my pleasure to be here, certainly to applaud the interest of the members of the committee on this subject. Obviously this issue of child support legislation is a matter of deep personal concern to me, both as a former Member of Congress and as Secretary of Health and Human Services. And I tell you that it is a matter of concern to the President as well.

I would like to especially commend the chairman for scheduling this hearing so early in the second session and to thank all of you for the personal interest you have expressed thus far.

Obviously we have come a long way, in the sense that we have passed a House version of a bill refining the current and existing law. But I think we all realize that we would not have a child support program at all had it not been for Senator Long's leadership in the 1974 session, and I was very proud to support his initiatives then as a Member of Congress.

We look now at the experience of the subsequent years and the question of how to refine the program in order to make it more effective. I have a statement for the record, and I will just extract salient points in the interest of time.

The amendments in the bills pending before the committee recognize that all children have the right to financial support from their parents and that a parent's first responsibility is to provide for the welfare of his or her children. They represent a new beginning, a rekindled determination, a challenge to both Federal and State governments, and the hope of many single-parent families.

The Census Bureau described the dimensions of the problem: more than 8.4 million American women in 1981 were raising children alone; 30 percent of these women and children were living in poverty. Although most of the 8.4 million families should receive child support payments, obligations had been established on behalf of only 4 million of them.

Actually, what might have been considered revolutionary for child support enforcement in 1975, is inadequate to meet the needs of our time. This committee has under consideration now a number of bills which represent a comprehensive set of changes to the child support enforcement program.

As you know, just before the end of the last session of Congress, the House unanimously approved H.R. 4325, which was the result of a bipartisan effort and includes provisions suggested in several child support enforcement bills including S. 1691. I would like to spend my time commenting on the differences between these two basic pieces of legislation.

Senator **Durenberger**. Let me say that would be very helpful, Madame Secretary, and your full statement will be made part of the record.

Secretary **Heckler**. Fine.

There are some basic differences in the bills, although they all go in the same direction in working to improve the enforcement techniques available. Some of the more basic and essential differences between the two pieces of legislation involve issues of enforcement techniques. The thrust of the administration bill, S. 1691, is to achieve an effective enforcement program but not be overly intrusive on the States. We have attempted to create that delicate balance which, based on our experience in the Department in collecting data on this program over the years, require techniques which achieve the greatest gain and at the same time allow States to experiment with such other techniques as they would find desirable.

Both bills require States to use proven collection enforcement techniques including mandatory wage assignment—there are differences between the two as to when the wage assignment process would be triggered—but nonetheless the process would be mandated; State income tax offsets; and expedited processes to avoid court backlogs.

H.R. 4325 also replaces the Federal incentives paid to States, currently based on AFDC collections, with incentives for the collection of both welfare and nonwelfare support payments for all families. These incentives would vary based on a State's performance.

We would make several changes in the H.R. 4325 that I think are the salient points to be considered by the committee. First of all, the date of effectiveness. The mandatory practices under the House-passed bill would not be effective until October 1, 1985. We would like to see these changes become effective more quickly and would recommend October 1, 1984, which is certainly do-able, predicated upon speedy Senate passage of amendments, which I think we have every reason to anticipate.

We feel that requiring earlier implementation, I think, imposes a sense of urgency about the need to reform the program, and at the same time it would allow us, and allow me as Secretary of Health and Human Services, to issue waivers in those States in which there isn't time to change the laws. But setting an earlier date of effectiveness recognizes the urgency of the problem today.

A second difference between the two pieces of legislation is the question of Federal financing. The administration would prefer to shift the emphasis in Federal financing to a performance-based incentive funding by a slight reduction in the current 70-percent Federal matching share for administrative costs. We would suggest that the matching share of the Federal Government be 65 percent.

We would also support a limit on the non-AFDC incentive payments of 100 percent of AFDC incentive payments, in order to insure a more balanced program. Currently, of course, non-AFDC collections are pursued in a number of States; nonetheless, this will be the first time that an incentive bonus will be authorized by law, for both non-AFDC and for AFDC. I think that is appropriate and overdue, but I also think having an equal limit on the payments creates the sense of balance that is, in my judgment, just.

The collection fees issue, again, is a difference between the two pieces of legislation. The administration has proposed an application fee of $25 and a collection fee to be collected from the delinquent parent of from 3 to 10 percent of the amount of arrearages collected, in order to help finance the program and to maximize the resources available for collection activities. H.R. 4325 does not include this provision.

Under current law, the collection fees are subtracted from the support payments the custodial parent receives. So it is almost a second penalty on the custodial parent, who is without the payment itself and suffers that burden, and then also suffers the burden for the delinquency period by paying the collection fee. We feel that is unfair and that the collection fees should be added to the arrearage, and then be imposed upon the delinquent parent.

The feature that we feel very, very strongly about is the need for expedited court procedures. The language of the House bill requiring expedited procedures for enforcement and for establishment of child-support orders is vague and permissive. We would urge the committee to strengthen this language by specifying the use of quasi-judicial or administrative procedures. The rapidly escalating use of the courts to resolve disputes makes it necessary to find more efficient and more effective means of establishing and enforcing child-support orders. Because of the heavy volume of cases handled by the court systems across the country, corresponding delays in litigating child support cases inevitably occur.

In an informal survey by the Department, we have learned that there are different backlogs in the scheduling of cases before the courts. For example, in rural areas the backlog might not be very great. However, it could be 1½ months or 3 months. Still, that is a very heavy burden for the custodial parent who is without the benefit of that support payment for all of that time. But in the urban areas of our country, the delays in scheduling these cases can go on for as long as from 6 months to 2 years.

For this reason, we strongly urge the committee to institute what we consider to be a fast-track system—preferably, in my judgment, the quasi-judicial approach, allowing for administrative approaches in those States in which they are effective. But this would allow child support cases to be expedited through the courts and not be the subject of the usual delays that a heavy court docket imposes.

Difference between the House-passed legislation and our proposal exist in other mandatory practices. The legislation proposed by the administration is less prescriptive, but permissive. Those procedures that a State wishes to impose on its own motion to achieve an effective program are certainly agreeable to us. But we would not mandate that all of these procedures be instituted by every State. We would, on the other hand, mandate only three procedures, and then allow for State flexibility in choosing others; for example: Liens on property of delinquent parents, requirements for bonds, securities or other guarantees where a pattern of past-due support exists, informing consumer credit agencies of arrearages, publicizing the availability of services, and tracking and monitoring of payments at the request of either parent where there is no arrearage. These procedures are mandated in the House bill. And while they may be suitable in one State or another, mandating all of them for every State we feel goes too far.

We do not support the provision in H.R. 4325 directing the Secretary to waive certain statutory requirements under IV-A, AFDC, or IV-D, child support enforcement programs, to accommodate an experiment in Wisconsin.

The Department is favorably disposed toward research and toward demonstration projects, but we believe that all projects should compete on their own merits. However, we do strongly support the extension of section 1115 waiver authority to the IV-D program, as proposed in H.R. 4325.

That is a summary of some of the differences, some of the more basic ones, and I would be glad to respond to the committee's questions on any of the others or on these.

[Secretary Heckler's prepared statement follows:]

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Washington D.C. 20201

FOR RELEASE ONLY UPON DELIVERY

STATEMENT BY

MARGARET M. HECKLER

SECRETARY

DEPARTMENT OF HEALTH AND HUMAN SERVICES

BEFORE THE

SENATE FINANCE COMMITTEE

ON

CHILD SUPPORT ENFORCEMENT LEGISLATION

TUESDAY, JANUARY 24, 1984

Mr. Chairman and members of the Committee, I am pleased to be here today to present the Administration's views on child support enforcement legislation pending before you.

I would especially like to commend you, Mr. Chairman, for scheduling this hearing very early in the second session; and I would like to express my appreciation to the Committee for taking a personal interest in the problem of child support enforcement.

The Amendments offered in the bills pending before the Committee recognize that all children have the right to financial support from their parents and that a parent's first responsibility is to provide for the welfare of his or her children. They also represent a new beginning, a rekindled determination, a challenge to both the Federal and State governments and the hope of many single-parent families.

An overall assessment of child support enforcement would probably conclude that the current program has been a remarkable success since its inception in 1975. It would also recognize that today's increasing numbers of broken families and out-of-wedlock births are resulting in more unsupported children and the need for more and better support enforcement.

The Census Bureau numbers only describe the dimensions of the problems before you. More than 8.4 million American women in 1981 were raising children whose fathers were absent. Thirty percent of these women and children were living in poverty. Although most of the 8.4 million families should receive child support payments, obligations had been established on behalf of only four million. Of these four million, where the judicial system had issued a child support order -- more than half -- 53.3 percent -- received only partial payment or no payment at all. Four billion dollars a year is not being collected on behalf of the children to whom it is rightfully and legally due.

American society has changed. What was revolutionary in 1975 is inadequate in 1984 for child support enforcement. The amendments in the various bills before the Committee are not reinventing the system, but refocusing and updating it to today's needs.

This Committee has under consideration now a number of bills which represent the most comprehensive set of changes to the Child Support Enforcement program since its inception in 1975. As you know, I appeared before you last September in support of the legislation proposed by the Administration, S. 1691.

Just before the end of the last session of Congress, the House unanimously approved H.R. 4325, which was developed as the result of a bipartisan effort and includes provisions suggested in several child support enforcement bills, including S. 1691. As you have requested, I would like to comment on the provisions of H.R. 4325.

H.R. 4325 would require States to adopt several enforcement techniques that improve child support collections both in intrastate and interstate cases. They are mandatory wage withholding, interception of State income tax refunds, liens against property, securities and bonds, reports to credit agencies -- to name a few. The Administration's bill for improving and strengthening child support enforcement contains fewer mandatory State provisions but similar wage withholding and State income tax refund intercept provisions.

In addition, S. 1691 would require States to use expedited judicial or administrative procedures for the limited purpose of establishing and enforcing child support obligations.

The rapidly escalating use of the courts to resolve disputes makes it necessary to find more efficient and effective means of establishing and enforcing child support orders. Because of the increasing volume of cases handled by the court system, corresponding delays in litigating child support cases inevitably occur.

In an informal survey we conducted recently, backlogs of 1-1/2 to 3 months from docketing to scheduling the hearing date were common, and there were numerous reports of delays of up to 6 months for the large urban jurisdictions and such delays could go as long as 2 years.

These may not sound like lengthy delays in the context of normal court proceedings, but let me assure you that for child support cases, they mean the difference between losing a home or wanting the other basic necessities of life.

H.R. 4325 recognizes the necessity of expeditiously adjudicating child support obligations, but fails to solve the problem by stopping short of mandating expedited process.

I urge the Committee to approve a strong provision to require States and localities to use an expedited judicial process in place of the traditional full-court process. Many different processes are available in either the judicial system or by a legal grant of authority to executive agencies to expedite the establishment and enforcement of child support orders. We would provide States the greatest possible flexibility in choosing the form most suitable to their circumstances and traditions. And, where jurisdictions are prosecuting child support claims in timely manner, no change would be necessary or desirable. We specifically provide for waivers allowing the Secretary to waive this provision where States or localities already have effective systems in place.

Another important improvement to H.R. 4325 would be an earlier effective date, and I would strongly suggest that the mandatory State practices become effective October 1, 1984.

I recognize that many of these requirements will necessitate legislative action in some States. Yet the sooner we make the proposed procedural changes effective, the sooner unsupported families will be helped.

An effective date of October 1, 1984 offers sufficient lead time for most States to enact the necessary statutes and implement the newly required enforcement techniques. Since we introduced our proposal last year, a number of States, inclulding Illinois, Connecticut and Delaware, have put tough child support laws in place. For those few States which may be unable to satisfy the requirements by October 1984 because of State legislature schedules, we would recommend a provision allowing an exemption until three months following the next session of the legislature.

Another major change which the Administration has proposed would revise the current financial incentive system for State child support enforcement activities.

While the House bill contains a program financing plan different from that originally proposed by the Administration, the provision in H.R. 4325 is an acknowledgment that the way we now finance these programs is outdated.

Currently, the flow of Federal dollars to the States is based on what States spend, not on the results they achieve. In FY 1983, the 18 most underachieving States spent more than they collected on behalf of welfare families -- and 11 of these still gained financially from the program. As a result, the collection process stalls, the taxpayer loses, and the children suffer.

At present, there are wide variations in the effectiveness of State programs, yet the current incentive system ignores these differences. In collecting for families receiving AFDC in FY 1983, six States account for 77 percent of the direct welfare savings but only 18 percent of administrative costs. The remaining States spent 82 percent of funds devoted to program administration, but account for only 23 percent of welfare savings. The statistics for non-welfare families are even more distorted.

The proposed incentives in H.R. 4325 reward States that have good programs. For the first time, States would be paid incentives for both welfare and non-welfare collections. For both the welfare and non-welfare segments of the program States would be paid incentives based on cost-effectiveness and total collections. We believe that a performance oriented incentive is essential to improving and strengthening State child support enforcement programs. It is noteworthy that this bill would allow double counting of collections in interstate cases and deductions of laboratory costs associated with establishing paternity for purposes of computing the incentive due the States. We estimate that this new bonus system will add about 25 percent to the current level of Federal incentive payments to States.

The Administration supports the approach taken by the House to link incentive payments to program performance. We believe, however, that a more balanced program can be achieved by limiting the incentive payment to any State for non-welfare performance to 100 percent of the incentive payment for welfare performance. It is my strong belief that the child support performance incentive must be equally set for welfare and non-welfare families and not tilted in favor of either group.

We believe a further emphasis should be placed on performance by slightly reducing the Federal financial participation rate from 70 percent to 65 percent. Under a slightly lower guaranteed Federal match of administrative costs, States would be even more motivated to pursue the incentive funding available under H.R. 4325, thus emphasizing improved performance. For instance, under our proposed financing, an increase of five percent in collections coupled with a reduction of five percent in expenditures will increase savings to the States by more than twenty-five percent, demonstrating the substantial payoff for improving performance. However, we would delay implementing the new funding structure, including this modest reduction in Federal matching until October 1, 1985, to facilitate the transition and early implementation of the mandatory enforcement techniques I mentioned earlier. This would enable States to have the mandatory practices in place and running smoothly before the financing change takes place.

We support the House proposal to earmark an annual appropriation of $15 million for special project grants to insure that the States vigorously pursue interstate cases. This is an area where there is considerable need for improvement. The funds would be used specifically to develop, test, implement and demonstrate new and innovative techniques that would encourage and promote quick and effective interstate enforcement of child support obligations and discourage the crossing of State lines to avoid making payments.

A provision not contained in H.R. 4325, but one which we propose is the requirement for non-AFDC application fees. The Administration's bill, S. 1691, provides for a minimum application fee of $25 for non-AFDC cases. A reasonable ceiling would be set on this fee by regulation. The State at its option could charge the applicant this fee or the State could pay it from its own funds. A minimal fee would defray some of the costs incurred in processing the application and providing support enforcement services. This fee would still be significantly less expensive than the cost of an initial interview alone with any private attorney handling support enforcement.

We believe that to encourage absent parents to meet their child support obligation fully and on time it is necessary to impose a collection fee on the absent parents when payments are in arrears. Such a fee would be imposed only when payments are not current and while an arrearage is owed. Current law and the House bill allow States to choose whether to impose a collection fee and to choose whether the absent parent or the custodial parent pays. We believe absent parents need to know the consequences of their failure to meet support obligations and that there are advantages to full and prompt payment. This collection fee would range from 3 percent to 10 percent of amounts in arrearage.

We oppose the provision in the House bill that would extend Medicaid eligibility for four months to families who are no longer eligible for AFDC due to increased child support payments. Rather, we have proposed that State CSE agencies pursue medical support as part of child support orders. We believe employee-subsidized coverage is available for a high percentage of AFDC and non-AFDC cases at little or no cost to the absent parent. The private coverage should be aggressively sought through State child support enforcement agencies instead of automatically relying on publicly funded medical services. This would provide a long-term solution that these families need.

Mr. Chairman, there are a number of other minor and technical comments we have on the House bill which will be provided to the Committee. Using the House passed bill with the amendments I have outlined above, we estimate that Federal payment to States for child support expenses will increase; State child support efforts will become more cost effective; collections from absent parents in AFDC cases will increase; more families will avoid having to go on welfare because of increased collections for non-welfare families; and more non-welfare families will use the child support enforcement system to obtain the support they deserve. Mr. Chairman, I am sure you will agree, this is a very impressive set of effects.

I know you share our view that legislation to strengthen the Child Support Enforcement program is a priority and should be enacted as soon as possible.

I understand that the Committee expects to begin action on pending legislation within the next few weeks, and we are anxious to work with you to develop a bipartisan consensus bill which can be enacted and signed into law at the earliest possible date. To paraphrase Sylvia Porter in her column earlier this month, children must not be allowed to suffer because of divorce.

The CHAIRMAN. Thank you very much, Secretary Heckler.

I understand that you are planning to work with the Governors, and you have one on your right, Governor Kean, with the State legislators, Speaker Loftus, and we will have a State legislator testifying soon, and others, to build upon any child support enforcement legislation enacted by Congress. In other words, this is a first step; you are going to be working at State and local levels for more enforcement. Maybe Governor Kean will testify to that, but do you have any plans you can tell us about now, briefly?

Secretary HECKLER. Well, I have a number of plans, but let me tell you that I solicited the support of Governor Kean when he visited me on another subject, and I am delighted to see him here today, showing that he follows through, and I follow through as well.

The fact is that I feel the sense of priority that the administration and the Congress has placed on the subject this year should be duplicated and replicated across the country by the Governors and the State legislatures.

I have already met with a number of legislators and intend to continue so. I intend to take a very active role with the Governors Association and other organizations in order to create, on the State level across the country, effective child support enforcement programs that meet the goals of the legislation with a sense of urgency.

Now, our staff, as well, will continue to meet with the Governors and with the State legislatures and their staffs, in order to provide technical assistance and to convey the high priority we place upon creating a very, very effective child support enforcement program.

I would like to actually achieve in 1984 the goal of really reforming the program and committing our country to effective child support enforcement. And if this can be achieved through a collaborative bipartisan effort across the country, I cannot imagine achieving any more important goal for American children.

The CHAIRMAN. Let me say, at that point, it is our hope that the administration and Republicans and Democrats across the country, in the Congress, in the House and the Senate, will be able to hammer out something we can all support, and do it very quickly.

We have another hearing scheduled Thursday at 1:30. Then we will be ready to go into a committee markup. But we would rather try to work out most of the differences before we have a committee meeting. If there are some we can't work out, we will just have to vote; and I know there are some areas where there are different views. We do have some reservations about the House bill—though not many.

I haven't discussed with Senator Long the details of what he may have in mind. But is it consistent for the administration, who has been saying we ought to have less Federal involvement, to mandate certain requirements on the States? I know you indicate there ought to be flexibility in most of the areas, but does that square with the general philosophy of this administration, to mandate certain requirements at the State level?

Secretary **Heckler**. Well, I think that we do not have a laissez-faire attitude toward public policy. We do certainly oppose imposing an unnecessary burden on the States, but as a result of the experience gained and the performance of this program since its inception in 1975, we have learned certain things. We see the program as being a step in the right direction, but not nearly as effective as it could be or should be. And the mandatory features which we would impose on the States are proposed in the spirit of achieving a really important American goal, and that is financial support for the children of America who deserve that. In fact, we have limited these mandatory techniques to those that have been most effective across the country.

But we feel that our bill achieves the goal of creating an effective program through a minimal intrusion into State affairs, while avoiding mandating a long list of practices that the House bill actually proposes.

We would allow, of course, the States the flexibility to incorporate any of the approaches that they feel are effective, but we would not mandate any except the three that have been singled out.

The **Chairman**. Senator Long?

Senator **Long**. Madame Secretary, thank you for your statement.

On the first page of your statement you referred to the increasing number of out-of-wedlock births. It is my understanding that we are rapidly approaching the point where this problem will account for half of all welfare cases. Unfortunately, the House bill could cause the States to place less priority on identifying the father in these cases. This is because the level of incentive payments in the House bill depends on what a State's administrative costs are. Determining paternity costs a fair amount up front, but it results in welfare savings over a period of time, and a very great savings.

Would you support changes in the bill aimed at providing better incentives for establishing paternity?

Secretary **Heckler**. Well, Senator Long, we have learned a great deal about establishing paternity, and I am told by our program specialists in the Department that the techniques for determining paternity have so improved that identity can be established with an overwhelming degree of accuracy.

We feel that there is a great incentive, and should be, on behalf of the State to invest in this paternity process, because the payoff for the State in removing families from welfare rolls is an extremely long one, as you have mentioned. We feel that a great deal of emphasis should be given to this, and we are giving it that emphasis in the Department.

Certainly we support efforts to strengthen the paternity identification system in States; it is a priority that I would establish with the Governors Association and with State legislatures. We also have a demonstration project that will give us more information on how this can be most quickly absorbed by the States.

We feel that the provision in H.R. 4325 which will allow the State to deduct the costs of laboratory blood tests for paternity establishment is supportable. We think that is a good provision, and we would certainly encourage that.

We would not like to see the bill weakened in the essential areas that I have mentioned for the sake of allocating more resources to paternity identification systems; but we do support that, and we feel it is very important. And we also think we can achieve it.

Senator LONG. Well now, please understand, I don't want to weaken the bill in any respect; I want to strengthen the program. What I am concerned about is that the way the bill is drafted now might mean that there would not be adequate funds available for determination of paternity. I just want to say that that is sort of a beginning point.

Secretary HECKLER. Yes.

Senator LONG. I don't think it is an answer to say that the States ought to do this. As long as we left it just up to the States, nothing happened; we just weren't getting anywhere. When the Federal Government gets into it, we begin to get some action.

Secretary HECKLER. I agree with that.

Senator LONG. And of course the States come here asking us to do more. This has been a weak area. I hope that we can get together on something to be sure that we do identify these fathers, because that is our starting point to gain child support, and it will be more and more important in the future.

Secretary HECKLER. I would agree with you, Senator. I want to make it perfectly clear that we feel it is very important to continue to have this part of the program. We feel that an emphasis should be placed on paternity establishment and that the State has a great deal to gain from it. Our techniques are now so sophisticated that the results are accurate and quickly obtained, so that this should be utilized by the States.

Senator LONG. Now, you agree with my position, and I agree with your position, that we can reduce the cost of the program by requiring, particularly in the nonwelfare cases, that the father pay the court costs and an attorney's fee, which would help to carry the burden of that program rather than putting that cost on either the children or on the Government.

That will help cut the costs of the program, but in this other area of identifying paternity, I think that we should not reduce the money available unless we are satisfied that the job will be done.

I want to get on the next point. The bill proposes a new incentive payment structure, which apparently hopes to stimulate more efforts in the nonwelfare area. While this is a desirable objective, I want to be sure that this is what we actually do.

Local officials tell me that they rely heavily on the existing 12-percent incentive payment to fund their operation. I am concerned that we do not change the law in ways that will undercut the ability of State and local governments to continue at least their existing level of effort. It seems to me that any financing changes should start with the premise that those who operate the program can count on at least the level of Federal funding that they now receive. For example, instead of lowering the incentive payment to a possible 8 percent, as in the House bill, we could retain the existing 12 percent as a minimum split between welfare and nonwelfare collections. Would you be agreeable to this general approach?

Secretary **Heckler**. Well, we feel that the incentive payments we have proposed in S. 1691 actually will reward the most effective performance and would be divided between welfare and nonwelfare collections. In those States in which an efficient system has been established, it would provide a greater incentive and a greater bonus financially than existing law.

As you know, the existing incentive payment is based only on welfare collection. We feel it should be imposed on a different basis, should be based on performance, and not merely exist to support a program that isn't achieving the goals that it should in a certain State. We think that the correlation between performance by the State and the incentive payments in both welfare and nonwelfare is critical. So, simply continuing to fund the States as we have in the past has not produced the type of an enforcement program that the children of America deserve.

We want to see it strengthened, and we want the incentive to be commensurate with results for children and for families.

Senator **Long**. Madame Secretary, your testimony cites the need for more effective State programs, and this is certainly the objective of Federal law. In fact, the No. 1 duty which present law imposes on your Department is to establish standards which States must meet to show that they have an effective child-support program. It is my view that this is a better approach—the Federal Government should require the States to show that they are getting results, rather than trying to spell out the details of how the States should get at the results.

I believe the General Accounting Office will later testify about the need for more emphasis on standards of effectiveness. I wonder if you would agree that we should tell the States what we expect of them in the way of results and let them decide the best way to achieve those results?

Secretary **Heckler**. I would agree with you totally, which is one of the reasons that I think the administration's bill is superior to the House-passed version, because the prescription of so many techniques imposes a laundry list of approaches on the States when what we really want, to achieve our goal, is simply to have effective techniques and allow the States the flexibility to add to what we consider the most important approaches available. I think giving the States flexibility is important, because the States differ. What we want as the bottom line is to see the children receive the child support payments, not impose a whole series of new changes on the States. Even though those changes might be desirable, are they really essential? We feel if they are not essential, that the States should have the flexibility.

Senator LONG. Now, since you are not going to be here when we discuss the disability matter, I want to ask a question about that, if I might, Mr. Chairman.

Secretary HECKLER. Senator, I would love to discuss that with you at another time, if we could.

Senator LONG. Well, I would like to ask this now, because it is not something that your assistants can answer for you. The cost of this program has greatly exceeded the estimates. And I was one of those who was a sponsor of the amendment that started this program into law to begin with. I have been dismayed to see the costs of this program go up to where at one point it was eight times what our original estimate was. And the reason for this increase is just the milk of human kindness that causes the people who hear those cases, as who hear the appeals, to put people on those rolls who are severely handicapped even though they are not totally disabled, as we had in mind when we passed the program.

Well, that program is way over its original cost, and still the pressure is on to further liberalize this program that is now costing about $18 billion a year. The cost will go way above $20 billion and more than that unless someone is going to do the thing that is not politically popular of insisting that this program is intended to take care of totally and permanently disabled people and not to take care of severely handicapped people.

Now, I am just not aware of support that people like me, who are trying to hold the line on that program, are receiving from your Department or from you.

I am particularly concerned that you didn't act when those Governors started refusing to obey the Federal guidelines. It seems to me that under the law it was your duty to take action when the first Governor told you that he was not going to abide by those Federal guidelines. The Federal Government pays percent of the cost of the program and of the people the Governors hire to run it. Yet they were declining to obey Federal law and your regulations issued pursuant to that law and pursuant to the measures passed here by this committee and by the Congress.

Now, can you explain to me why you didn't act to tell those Governors that you were federalizing this thing when they told you they weren't going to abide by your regulations?

Secretary HECKLER. Senator, you raise an issue that this committee certainly has been concerned with for some time. That is not the subject before us, and we do not have the specialists from the Department here, but let me just say this——

Senator LONG. Well, you ought to know about this, Madame Secretary.

Secretary HECKLER. I know all about this, Senator, I know all about it. I can just tell you this, however, that when the first States objected to the Federal procedures, we considered how the Department should respond, and there was at the same time a recognition that Congress was considering legislation. The congressional proposals ranged across the board. Now, the Congress has not acted on that legislation. At the same time, you as a leader in this issue, have been outspoken in the position that you have taken, but many of your colleagues in Congress are taking a totally different approach. And in the midst of such ambivalence and different messages and expression, and in the midst of ambivalent judicial determinations, it was our feeling that the most important steps that we could take were the administrative changes that I have announced and imposed on the States, as well as the legislation which will change the reconsideration process and allow for face-to-face reconsideration of disability cessation cases.

We feel very strongly that we want to honor the law and that we want to give just disability payments to those who are entitled to them. We do not wish to have a miscarriage of justice on the one hand, nor do we wish to see an abuse of the program on the other hand. To avoid both of these extremes, in the reconstituted reconsideration process, there will be a face-to-face evidentiary hearing with individuals whose disability might have been judged to be inadequate by a prior decisionmaker. The face-to-face discussion allows the disabled person to present his or her case and be heard.

Many of the excesses and injustices that occurred before were the result of a process that did not allow the recipient of the program to even be seen until the ALJ stage of appeal. And as a Congresswoman I had constituents who were also victimized by not being able to be seen and to be heard.

I have announced the implementation of the face-to-face reconsideration. We felt the waiting for the training sessions so that the reconsideration process could be implemented across the country in January of this year was the appropriate action to take in relationship to the States. And if the States do not wish to cooperate with us subsequent to the introduction of that system, we intend to take further action. But in the interim we would expect, Senator, that the Senate Finance Committee will act on this issue and that the Congress will speak, because the review of the disability cases, as you know, sir, was required and mandated by the Congress and is a continuing responsibility for our Department.

As we went through the review process, the cries of protest arose, and the Congress, at least one house of the Congress, seemed to be in the midst of a potential change of heart or change of mind. How firm is that? Is that a bicameral decision? Or is it just the decision of the House? These are many of the issues that can be discussed at length with you, and I would be happy to do it at another time.

Senator LONG. Let me just make this point now. You have an act of Congress on the statute books to administer. We found we had a runaway program on our hands. Secretary Califano told me, back when President Carter was in office, that this program was completely out of control and something had to be done. So we passed an amendment to deal with the problem out of this committee, and the House agreed to it—it was an amendment to a House bill—and that is the law.

Secretary HECKLER. Right.

Senator LONG. That law requires the Secretary—then Mr. Califano—and his successors, which is now you, to tighten up on the program because the program was far outside the intended cost, and there were a lot of people going on those rolls that really didn't belong there.

Now, I have heard all these horror stories. I also know a lot of people personally, whom I have known all my life, that don't belong on those rolls.

Secretary **Heckler**. Well, I would like you to send their names to my Department, sir, and we will take care of it. [Laughter.]

Senator **Long**. Well, if you don't mind, I am not going to get involved in it on a case-by-case basis. [Laughter.]

But anyway, we passed a law requiring that the program be tightened up. And we did that not under President Reagan; we Democrats provided leadership for that, and our Republican colleagues went along with us. We did the responsible thing and said, "This program has got to be tightened up."

Now, there was no fun in doing that. It is not pleasant to face these handicapped people and tell them, "Look, the program is costing too much money; it is for people that are completely disabled and not for people who are severely handicapped, but not to the point of total disability."

But then some of these people proceeded to go to the Governor of their State and suggested to their Governor that he just defy your orders. And mind you, with the Federal Government paying 100 percent. They suggested that the Governor proceed to spend Federal money in ways that the Federal law does not call for and in ways that the Secretary's regulations do not call for.

Now, it would seem to me, Madame Secretary, that when the first Governor did that, you should have said, "Well, now, since you are not abiding by the law and by our regulations, we will have to take recourse, and we will say that as of *x* date we will not any longer employ any of your people; we will hire our own and do the job the way the law and regulations require." Now, why didn't you do that? Now you have 20 Governors defying you, haven't you? How many have said they are not going to abide by Federal law and regulations?

Secretary **Heckler**. Eight or nine at the most. But the fact is this, Senator: We hope to avoid totally federalizing the program, creating a whole new Federal work force.

At the same time, there were some criticisms of the program that were legitimate. And we felt very strongly that imposing the face-to-face process would allow the hearings officer the chance to look at the individual recipient and make a judgment.

As a Congresswoman I had a case in which a person was totally disabled, and if you had just looked at that woman you would not have questioned whether or not she was entitled to the benefits. She was, clearly. She was cut off from the rolls. I intervened on her behalf, and the decision was changed.

What we try to do, and what we have done, is to create a process in which fairness is introduced, in which the individual who has been on the rolls say 10 years or so and believes himself to be disabled can present his case. If a doctor says he is not disabled, then there is a difference of opinion. The individual can speak out. Or, if a decisionmaker has made a negative judgment and the individual has other evidence, it gives him that chance to speak out. But that is not to deny the congressional mandate for review and for an honoring of the law. I intend to do that, we are doing that, but we have imposed a new process.

Now, the other point is this, Senator. It is interesting to move from the legislative arena to the executive branch, because, you see, in the Congress there is one perspective and in the executive another. As a Congresswoman I helped draft the laws as you do; as an executive, I implement the laws. As we saw the difference of opinion emerging, and I was lobbied by your colleagues on the House side for a change in the law, stressing that the law would be changed, and in fact the House version does change the law more substantially than we wish—there was that perspective. What I wanted to introduce was equity and fairness and have a system that would honor the statute and be fair to the disabled. This we have imposed. We think that we will have really avoided the very severe dislocations that existed before, and we think the process should be given a chance to work. In the meantime, we await the will of the Congress, and we await the judgment of this committee as to what it will impose in terms of the final statute.

Now, I know that we could discuss disability all afternoon, and it is a very important program. I would be happy to spend an afternoon or more time with you, with the committee, discussing it. But I would say that really it is terribly important that we get our child support enforcement program through, and I hope, Senator, as the godfather of the program, that you are going to help us strengthen it effectively, especially in terms of the fast-track process that requires the States to expedite establishment and enforcement of support orders, that we can have your very, very wise counsel and support on that program.

Senator **Long**. Well, Madame Secretary, I am trying to help you do your job, and in all respects, if I can. The easy part of it is to support what you are asking me to do about the child support enforcement. There was a time when that wasn't very easy; it's fun now to support that program, because now the women's movement has gotten behind it—bless them all—and so now we have a lot of support for it. It is now becoming a popular program.

But this disability program is a runaway spending program. The President said he doesn't want a tax increase to solve the deficit problem; he want's to cut spending. Well, I don't know how better to handle it than to start out with getting these runaway spending programs under control.

Secretary **Heckler**. I agree with you. I agree with you.

Senator **Long**. It looks to me right now as though I am about the only one up here trying to support the President on controlling spending in this area. [Laughter.]

It is not that I volunteered for it, particularly, it is just that it looks like somebody has got to do the job. Bob Dole is giving me some help, but I'm not getting much help otherwise, and I am calling upon you, Madame Secretary. I really think you ought to tell these Governors that, if they aren't going to do this thing according to regulations, we will have to hire our own examiners.

Secretary **Heckler**. Well, Senator, we have just sent a letter to all of the Governors saying that we are instituting the new face-to-face reconsideration process; it imposes a new dimension of fairness to the whole disposition of the case; it will be instituted across the country in every State. If the States, after the implementation of this process, do not wish to continue and will not cooperate with the Department, we will take other steps. And we have given them notice that their responsibility is to carry out Federal policy for their citizens.

Letter Sent to States with Self-Imposed Moratorium

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

JAN 24 1984

The Honorable Mario M. Cuomo
Governor of New York
Albany, New York 12224

Dear Governor Cuomo:

The long-standing arrangement which this Department and your State have had in administering the social security disability programs has, I believe, made clear to both parties that the disability program is very important to the American public. Each year $17,588,000,000 in benefits are paid nationally with $1,431,000,000 going to beneficiaries in your State. New York plays a key role in this program by making disability determinations, employing 1,398 people with an annual budget of $68,613,197.

We value our association with the States because, over time, it has been an excellent example of a positive Federal-State relationship. As in any relationship, each party has specific roles and responsibilities. The Federal Government's main responsibility is to set policy that provides for uniform and equitable treatment of disability claimants and beneficiaries nationwide. The State's responsibility is to carry out that policy for its citizens.

In December the Social Security Administration advised your State to hold notices to persons whose disability had been determined to have ceased. This was done because the authority to continue payment to those persons pending appeal of their decision expired on December 7 and Congress was considering an extension of that authority. Also, the face-to-face reconsideration process was scheduled to begin on January 1, and we wanted to be assured of a fair and consistent notice of this opportunity for all beneficiaries. Now that we have reached agreement on our plans for the face-to-face reconsideration hearing, I believe we can resume our full-processing of this program in a way assuring fair and humane treatment for our citizens. In addition, I reiterate my support for legislative proposals calling for continued payment through the face-to-face procedure and will continue to strongly support this action.

The Social Security Administration will provide your State with instructions to resume full and complete processing and notification of disability cessations beginning in February with the added dimension of the face-to-face reconsideration process.

You should notify the Regional Commissioner of the Social Security Administration of your plans to resume processing of these cases within the next two weeks. I have directed the Social Security Administration to work with you to ensure a smooth resumption of this process along with the start-up of the face-to-face reconsideration at the State level.

Sincerely,

Margaret M. Heckler

Margaret M. Heckler
Secretary

In the interim, we would hope to have the Congress speak—hopefully—with one voice so that we can know through the Congress the will of the American people, and take that direction, because we seem to be at a crossroads or the program.

But let me say this: We thoroughly agree with you, and I agree with you, on the issue of avoiding runaway spending and avoiding any abuse of taxpayer dollars, and any use of funding that contradicts the will of the Congress. And this is a goal that I intend to implement in this program.

We are taking important steps, and hopefully the States will concur and be supportive. If they do not, we intend to move forward.

Senator LONG. Thank you.

The CHAIRMAN. Senator Bradley?

Senator BRADLEY. Thank you very much, Mr. Chairman. I have two or three short questions.

Do you support the wage withholding provisions of the bill?

Secretary HECKLER. I support wage withholding, yes. We feel that is an essential element. There is a difference between our version and the House version, which is the timeframe.

I personally would not favor an immediate wage withholding in the very first instance. It implies no good faith whatsoever on the part of the father. But this is not an essential difference between us.

Senator BRADLEY. Well, you do not support immediate withholding. The House had 30 days.

Secretary HECKLER. Yes.

Senator BRADLEY. Do you support the 30 days?

Secretary HECKLER. We could live with that. Our bill has 60 days, but 30 days would be fine. Yes, we could support that. We feel including a mandatory wage assignment is important.

Senator BRADLEY. You would prefer 30 or 60 days?

Secretary HECKLER. Well, I have preferred 60, but I think there are good arguments for 30. So I definitely could support 30. I like 30, as a matter of fact, at this point.

Senator BRADLEY. OK. [Laughter.]

Do you support any other mandatory provisions?

Secretary HECKLER. Yes. I feel that the House bill does not contain one of the most essential mandatory provisions that we have proposed—that is, the requirements for a fast-track judicial process. And I, as a lawyer who handled child support cases feel very strongly that clogging up the courtrooms with these issues is really prejudicing the custodial family unfairly. And the House provision does not have any quasi-judicial procedure whatsoever, and I think this is an essential element in reforming the system.

Senator **BRADLEY**. All right. You support wage withholding, and you support several other mandatory provisions. In TEFRA the Federal contribution to child support enforcement was cut from 75 to 70 percent; the incentive payment was cut from 15 percent to 12 percent. Is it true that you want to cut the Federal assistance to child support enforcement from 70 percent to 65 percent?

Secretary **HECKLER**. Yes.

Senator **BRADLEY**. And you want to cap non-AFDC payments at 100 percent of AFDC payments?

Secretary **HECKLER**. Cap the incentive pool.

Senator **BRADLEY**. Yes.

Secretary **HECKLER**. We are creating more incentives than exist under the current law. We will not cap spending. We have reduced automatic spending but increased the incentive bonuses, so there is more money for a State that performs well. But the key point is that we tie the incentive payment to performance; so that, while we cut the State's automatic Federal share from 70 percent to 65 percent we induce the States to excel in its enforcement efforts by offering them the bonus on both AFDC and non-AFDC cases. And under the current law there is no bonus on non-AFDC cases. So, a State could actually get 25 percent more in Federal funding under our proposal.

Senator **BRADLEY**. But it is not an entitlement, is it? Isn't it subject to appropriations?

Secretary **HECKLER**. No, the incentives in H.R. 4325, which we support are an entitlement.

Senator **BRADLEY**. OK.

Secretary **HECKLER**. It is based on performance.

Senator **BRADLEY**. The question that I have been leading up to is that, at the same time that you are mandating States to increase their collection efforts, you have cut the Federal funding of the program. My question to you is, how do you justify cuts if you are serious about child support enforcement?

Secretary **HECKLER**. Well, it is a very interesting thing. I received figures today on the benefit to the States from the Federal child support enforcement program. And the Department supplied data indicating that, since the inception of the program, the States have received $1.8 billion above their costs.

So, this is a program that has been very beneficial to the States. What we have not seen, despite the substantial amounts States have received, is a very unequal approach to child support enforcement. So, States are receiving money even when their program is gaining very little for the children involved. In some States, for each dollar invested the State will only collect something like 19 cents; but they will receive *x* number of dollars from the Federal Government because we pay the administrative costs. We want to tie what the States receive to their accomplishments in collecting the support that the children are owed. And that is the reason—

and we justify it very simply—that the current program is not getting the results for the children that it should.

Some States have excellent programs, and some States have poor programs. We say an incentive system based on the results of performance is going to be the fairest one.

Senator **Bradley**. One other question. In the House bill there is a provision that says that if someone who is on welfare receives child support and the child support makes them ineligible for medicaid, they would be grandfathered as eligible for medicaid for 4 additional months. Do you support that?

Secretary **Heckler**. No, we do not.

Senator **Bradley**. Why, and what is the net cost?

Secretary **Heckler**. I will have to provide that cost for you. But we feel that in general the medicaid requirement is an issue that should be faced in other legislation, that really we are looking at enforcing child support, and that is our central theme here.

We have by regulation prescribed that child support enforcement program managers go out and seek to have health insurance included in the court orders. And we feel that that is the right approach. In addition to child support, the medical coverage should be imposed in the court order.

We feel that many and in fact the vast majority of cases in which child support will be collected are those cases in which the father is employed, and that most of these fathers have health insurance, 74 percent of the part-time workers have health insurance, according to the statistics that we have available at the Department.

Now, what we would want to see would be the inclusion of coverage of children under the father's health plan. I think that is only fair, and it would not cost the Federal Government anything.

So, if we were to mandate Federal/State coverage under medicaid, we would be incurring Federal expenditures that really should be handled by the father and could well be handled by the father.

Senator **Bradley**. Doesn't the House bill have that in it as well as the medicaid provision?

Secretary **Heckler**. My understanding is that the House bill mandates 4 months coverage under medicaid.

Senator **Bradley**. But it also does what you are suggesting on coverage for the father.

Now, just one last question. Is there any evidence that you have that some child support payments are not being made because it would make the family unit ineligible for medicaid?

Secretary **Heckler**. I know of no incidences.

Senator **Bradley**. None?

Secretary **Heckler**. Well, we have not collected any extensive data on that subject at all. So, I could research the issue, but I don't know of any.

Senator **Bradley**. Could you?

Secretary **Heckler**. Yes, I would be glad to.

Senator **Bradley**. And provide the information for the committee?

Secretary **Heckler**. Yes.

Senator **Bradley**. Thank you.

[The information follows:]

We do not have any evidence indicating that obligated absent parents are withholding child support payments in order to continue the family's eligibility for Medicaid. The information we are authorized to collect does not provide us with any evidence to substantiate or deny this possibility.

Senator BRADLEY. Thank you, Mr. Chairman.

Senator GRASSLEY. Thank you, Senator Bradley.

As part of my hearings last year on income tax offsets we had Fred Shutzmann of the Department of Health and Human Services before our committee. And at that point I had an opportunity to ask him for estimates both on collection and cost if a non-AFDC Federal income tax refund offset were adopted. The estimates that he gave us did not include welfare cost-avoidance savings, which are the funds saved by the Government when a family is removed from or remains off the welfare rolls because of the receipt of child support.

Wouldn't one of the main functions of the refund offset program be to keep people from becoming dependent on welfare? It would seem to me that one of the key assumptions in developing cost estimates would be to factor in those savings. In other words, I think the figures came out to be much more expensive than they really would if that factor were included.

Secretary HECKLER. It is very difficult to make the judgments necessary to have very accurate figures. That is one of the difficulties. We cannot—at least, the Department tells me that at this time they cannot with any sense of precision, determine how many people would be kept off welfare if we did have effective child support enforcement and if the offset were used. It is just a very imprecise area, and therefore it would be difficult to draft a law on that basis.

Senator GRASSLEY. Well, can you generalize in any way and assume that there are going to be people kept off welfare?

Secretary HECKLER. Oh, I think you can. I think you can assume it. But at the same time——

Senator GRASSLEY. You can't document the savings?

Secretary HECKLER. That's right. And so, without having more concrete information, I don't think it is wise to change the law.

Senator GRASSLEY. Would it be fair to generalize, then, that the savings would be a little bit more than the figures we were given for the savings that came as a result of the collections?

Secretary HECKLER. Yes.

Senator GRASSLEY. I would also like to ask you if you could provide the information, and it deals with the Internal Revenue Service study of the impact of the tax refund offset program on compliance. It is my understanding that the study has been sent to the White House and OMB for comments. Are there any recommendations made on how to improve the current refund offset program for AFDC families?

Secretary HECKLER. This study is not currently available. It is not public at this point.

Senator GRASSLEY. Nobody in your Department has had any connection with it, then?

Secretary HECKLER. It is my understanding that the study is not publicly available at this time.

Senator **Grassley**. Does that mean that nobody in your Department has seen it, or does it mean that they have seen it but you can't comment on it?

Secretary **Heckler**. I cannot tell you if any one in my Department has seen the study, but I do know there is a study. It has not been made available at this point.

Senator **Grassley**. One of the provisions included in the bill that I introduced on this subject, S. 1708, is the extension of the Federal income tax offset program on behalf of non-AFDC families. My bill would limit the States responsibility to the amount of withholding for past-due support which accrued on or after the date on which the case was filed with the State agency. Then the delinquent payor would be given notice of the proposed action and a reasonable opportunity to contest it.

Further, it would be my intent in the case where a second spouse is involved to notify the nonobligated spouse of his or her right to claim a share of the tax refund. With these safeguards in place, do you feel the Federal Government, in coordination with the States, could implement this Federal income tax offset?

Secretary **Heckler**. Senator, you have been extremely outspoken and effective, I think, on behalf of improving the child support program, and I really applaud your efforts.

On that particular subject, I happen to feel that having the tax IRS refund applied to the non-AFDC case would impose a very heavy burden and be subject to error that would be unfair to taxpayers. The IRS has argued, and I think very, very effectively, that they do not have sufficient up-to-date records on which to make the kinds of judgments that would have to be made.

We have in the Department, for example, extensive records on all AFDC cases, and we know exactly what they receive. And there is a chance of an error in terms of the father's obligation, the payment that is owed. The chances are minimal, and you do not have the possibility of having the IRS, under the AFDC refund provisions, make an error in justice. But when you get into the non-AFDC cases, we do not have up-to-date records. In fact, our records are very, very minimal. There is simply no way of being sure that even the amount that is determined, that the IRS would have have available to it, is the accurate amount. Other circumstances could have taken place, the family could have paid in the interim, et cetera.

The chance for abuse of the system, for inappropriate refunds, and the difficulty of administering that kind of a system, with so many variables, makes the idea of including the non-AFDC cases in the IRS system rather impractical.

Senator **Grassley**. Well, I wish that the arguments that you give were from a practical aspect and the lack of information. But I have listened to the IRS give this argument so many times, going way back to when you and I used to serve on the House Agriculture Committee and were trying to use the offset to recapture overpayment of food stamps, that I think it is a philosophical argument on the part of the IRS and one which you have adopted, as opposed to a practical argument. And I would think we have come a long ways in the last 7 or 8 years in which we could provide this, to be able to overcome what are supposed to be practical difficulties with it.

I suppose I have to accept your statement, but I think I would disagree with it for the same reasons that I have disagreed with the argument for a long time. I think it is one tool that, unless we use it, will allow people to continue to get away with not meeting their responsibilities, whether it be this instance or whether it be students not paying back their student loans, or whether it be people who, fraudulently or otherwise, get an overpayment of food stamps. It is something that we are going to have to start answering practical considerations on in order to really clamp down the way we ought to.

I guess all I would ask you to do at this point, then, is maybe look again at the reasons.

Secretary **Heckler**. Well, Senator, we feel, you know, that there are just so many different payments, and the courts and the States have accurate records on what is owed in the AFDC cases. We feel very strongly about the AFDC cases and the continuation of the refund process. The tax offset is very important there.

But we have the records there to know exactly what is owed. With the great variations in court awards and the difficulty of getting timely information to IRS with all the other information they are collecting, it is very difficult to have a system that will be sufficiently precise to justify the offset of the refund. So that is the difficulty.

Now, I think, frankly, if we can change the system and reform it with the really effective tools we now have identified, that we are going to have a system that will make child support enforcement what we want it to be. And I would like to see that it is as inevitable that child support be paid by the delinquent parent as anything else on his MasterCard or Visa; that it is an automatic payment, and it doesn't go to the bottom of the heap but goes to the top because there is no way to avoid it. I think we can achieve that by the legislation we have proposed, S. 1691, and by the commitment of Governors, legislatures, and all of us monitoring this very closely. I certainly intend to do that.

I think we have the same goals, and I think we can achieve the goal with the approaches that we have, and especially the approaches in the proposed bill that the administration has put forward.

Senator **Grassley**. Well, admittedly there might be some problems in some States where there is a difference, but in some States like Nebraska, for example, where they do such a good job in terms of both AFDC and non-AFDC cases, it seems to me like we ought to make the tool available where the information and statistics are very accurate.

Senator Long, do you have any further questions?

Senator **Long**. No questions.

Senator **Grassley**. Madam Secretary, those are all of the questions that we have. We thank you very much for your participation.

Secretary **Heckler**. Thank you.

Senator **Grassley**. Senator Boren's statement will appear in the record.

I have the opportunity, and I am sure that Senator Bradley wants the opportunity, as well, to welcome to the witness table the Governor of New Jersey, Thomas Kean. He is also here in his capacity as vice chairman of the Committee on Human Resources of the National Governors' Association.

Senator Bradley?

Senator **Bradley**. Thank you, Mr. Chairman.

I just want to extend a welcome to you, Tom. We look forward to your testimony, as the designated representative from the Governors' Association but also as our Governor. I see George Albanese is here, too, and welcome.

STATEMENT OF HON. THOMAS H. KEAN, GOVERNOR, STATE OF NEW JERSEY, VICE CHAIRMAN, COMMITTEE ON HUMAN RESOURCES, NATIONAL GOVERNORS' ASSOCIATION

Governor **Kean**. Thank you, Mr. Chairman, Senators. I appreciate very much this opportunity to testify before you. I will condense my testimony, which I know you will appreciate.

I have here with me George Albanese, who is my commissioner of human services, and he is the one who is actually responsible within our State for administering these programs; so I thought it would be helpful to have him here, and he can answer any specific questions on the administration of these programs in our State.

We are here today to talk about an issue which affects millions of our Nation's children and which indirectly affects millions of single parents, and of course, particularly women. Too often absent parents are turning away from legal and moral responsibilities to support their children. While court orders may direct them to provide financial assistance to their families, the courts have been unable to enforce their orders adequately.

More than $4 billion in child support payments is in arrears on an annual basis, forcing mothers and their children into poverty. I know we don't intend to ignore this need. Since the founding of our Nation, the State and Federal governments have sought ways to promote the welfare of children.

From child labor laws to income support and nutrition programs, we have worked together to establish the best possible environment to encourage mental and physical growth.

But this involvement has always been predicated on the assumption that parents should have the first and greatest responsibility for the welfare of their children. But when parents are delinquent in their responsibilities, it then becomes necessary for government to step in and to protect the rights of the children.

Since 1975, Federal, State, and local governments have been working together to insure that parents receiving Aid to Families with Dependent Children assume their proper responsibilities. In addition, the State and Federal programs have made some effort to assist in obtaining legally due support payments from non-AFDC families.

The National Governors' Association strongly supports efforts to improve the enforcement of court-ordered child support. We believe that continued Federal financial support for the administration of this enforcement program is vital. Structured incentives will speed the implementation of new statutory and administrative tools.

We support the intent of current legislative proposals to improve State efforts to collect child support payments owed to children in both welfare and nonwelfare families. Current collection efforts have been aimed primarily at collecting obligations owed to AFDC families. Improved collection efforts will prevent many non-AFDC families from becoming dependent themselves on public assistance.

A recent University of Wisconsin study found up to 300,000 children could be lifted out of poverty if the child support enforcement program were improved. It is therefore an extremely important preventative measure.

The child support enforcement program should work equitably and promptly for the nonwelfare segment of the population.

My own State of New Jersey has a successful program to collect payments from non-AFDC parents. In 1982 we collected almost 10 percent of all non-AFDC collections nationally. We know that there is a tremendous need for this service. In the last year alone, the number of non-AFDC cases participating in New Jersey rose from 75,000 to 85,000. Without this assistance many of our children would be denied the needed support to which, of course, they are entitled.

We believe that additional improvements are possible, and the Governors are prepared to lend their support and their leadership to those efforts.

We recognize that there is a very wide variety in State performance under the child support enforcement program. Federal legislation can provide a framework for strengthening and improving the States' current performance.

However, while federal legislation should recognize effective State child support collection efforts, it is essential that the Federal Government not preempt these successful efforts.

You have before you several proposals aimed at this objective. Let me address my comments to just two of the bills now before you, S. 1691, the administration's child support enforcement legislation, and H.R. 4325, the House-passed Child Support Enforcement Amendments of 1983.

I want to commend Secretary Heckler and the administration for recognizing the need for a strengthened program and placing child support enforcement among the administration's legislative priorities. I also want to congratulate Members of the House for reporting and passing overwhelmingly H.R. 4325. In New Jersey, of course, we are especially proud of Marge Roukema for her efforts and leadership on this issue, just as we are proud of Bill Bradley for the leadership he is taking in the Senate on this measure.

Both of these bills contain elements which address the problems of serious concern to all of us who are Governors. Both give new attention to techniques which have proven effective in collecting child support obligations. Most States are working hard to improve child support enforcement, and many have already acted to implement procedures recommended in both the House and the administration bills.

The Governors, however, remain concerned with proposed changes in financing and with new Federal mandates. The Governors believe that improvement and expansion in child support enforcement will be in serious jeopardy unless the Federal matching rate of 70 percent for State costs of administering the program is maintained.

The administration's bill would reduce the administrative match to 60 percent and repeal the 12-percent incentive payment. Because of the 10-percent reduction in administrative match, it appears that what would happen is an administrative shift of cost to the States, which could jeopardize the program.

We are further concerned that the incentive payment programs proposed will be detrimental to local governments, which have a large responsibility for administrating this program.

The National Governors' Association favors the provision of H.R. 4325, which retains the 70-percent administrative matching rate as well as providing a guaranteed incentive payment. This approach is beneficial, because it would enable States to expand their existing programs by providing adequate guaranteed funding for administrative expenses rather than having to depend on possible incentive payments. It would also reward States commensurate with performance.

While the National Governors' Association welcomes the House approach which attempts to balance incentives for both AFDC and non-AFDC performance, I personally believe that it can be strengthened. In my view this legislation does not adequately recognize the efforts of States which already have a strong collection effort for non-AFDC obligations. I believe this is contrary in many ways to the intent of the legislation. There are several ways to modify the incentive formula to ameliorate this situation.

In New Jersey we believe that the problem can be resolved by simply lifting the ceiling on non-AFDC collections to 150 percent of the States' incentive payment for AFDC collections from the 125 percent imposed in H.R. 4325. This, to me, is a very important provision and will strengthen the overall effort.

There are some other solutions which I would be happy to discuss with you. I know Senator Bradley has had many discussions on this particular bill with our staff.

Many States have already acted on their own to implement enforcement procedures which would be mandated by S. 1691 and H.R. 4325. These procedures include income withholding, State income tax refund intercepts, and quasi-judicial administrative procedures. Under a typical income withholding provision, the absent parent's salary may be attached if a court-ordered obligation is in arrears. The State income tax refund intercept enables a State to attach a refund if a parent payment is past due. The quasi-judicial or administrative procedure uses hearing officers or an executive agency to determine child support duties and to establish and enforce orders. This is done outside the court system, and a decision as to support is made by an administrative law judge or a hearing officer.

States are committed to developing programs to increase child support collections while minimizing administrative costs. The National Governors' Association believes States should have the flexibility to achieve these objectives, which are the same objectives you seek, with a minimum of Federal mandates. Our concern with mandates has several aspects:

First, that family law has traditionally been the responsibility of the States. State legislation establishes the legal right to support and governs the ways in which these rights may be enforced.

Second, the current network of family, business, and tax law is extremely complex and detailed. While certain general principles apply throughout the Nation, the details of the law vary considerably from State to State.

Let me summarize by saying that the National Governors' Association strongly supports the child support enforcement program. We support provision of adequate financial resources to expand the program and improve collections for both AFDC and non-AFDC families. We believe States should adopt procedures which enhance their existing child support enforcement efforts, and that the Federal Government should give States the flexibility to use methods appropriate to their individual needs.

On a final note, I am pleased to announce that the National Governors' Association Committee on Human Resources will focus on the child support enforcement problem during its regular winter meeting on February 27. At that time we hope that Secretary Heckler will be able to join us in a thorough review of the program and in the exploration of how Governors can act to make our own State programs more effective.

Following that meeting, we are going to continue to work with State associations and the Office of Child Support Enforcement in the Department of Health and Human Services in order to improve our efforts to provide additional information and technical assistance to States, to increase the effectiveness of State programs.

Speaking as Governor of New Jersey, I want to emphasize my strong support for the implementation of those measures which would increase child support collections and improve accountability in this program. Many of the changes proposed under H.R. 4325 have already proven very effective in New Jersey and other States, as well. We have already done a great deal in New Jersey to insure that children receive the support to which they are entitled, but I know we can still do much more. And the strong national commitment to this program which you are talking about today is needed if we are to fulfill its real promise. With your assistance I know we can reach that goal, and I want to applaud you and the work of this committee and pledge my support to your efforts to improve this vitally needed program.

I would be happy to answer any questions.

[The Governor's prepared statement follows:]

TESTIMONY OF THE HONORABLE THOMAS H. KEAN
GOVERNOR OF NEW JERSEY
ON BEHALF OF THE NATIONAL GOVERNORS' ASSOCIATION
BEFORE THE SENATE COMMITTEE ON FINANCE
JANUARY 24, 1984

Thank you for this opportunity to testify today on behalf of the National Governors' Association. I have with me New Jersey's Commissioner of Human Services, George Albanese, who is responsible for administering the child support enforcement program in my State.

I want to talk to you today about an issue which affects millions of our nation's children and which indirectly affects millions of single parents, particularly women, who are struggling to support their families. Too often absent parents are turning away from their legal and moral responsibilities to support their children. While court orders may direct them to provide financial assistance to their families, the courts have been unable to enforce their orders adequately. More than $4 billion in child support payments is in arrears on an annual basis, forcing mothers and their children into poverty.

We cannot ignore this need. We must expand and strengthen our commitment to the well-being of our children. Since the founding of our nation, state and federal governments have sought ways to promote the welfare of our children. From child labor laws to income support and nutrition programs, we have worked together to establish the best possible environment to encourage mental and physical growth.

This involvement has always been predicated on the assumption that parents have and should have the first and greatest responsibility for the welfare of their children. But as parents are delinquent in their responsibilities, it is necessary for government to step in and protect the rights of their children.

Since 1975, federal, state and local governments have been working together to ensure that parents receiving Aid to Families with Dependent Children (AFDC) assume their proper responsibilities. In addition, the state and federal programs have made some effort to assist in obtaining legally due support payments from non-AFDC families.

According to the Census Bureau, only about half of the 8.4 million female heads of households were awarded any child support in 1981. Of the roughly four million women awarded child support, only about half received the full amount ordered by the courts. Some received none at all.

In FY83, federal, state and local governments spent over $14.2 billion on AFDC. Many families who would not otherwise qualify for AFDC benefits become eligible because an absent parent is not making a child support payment. In FY82, the child support enforcement program recovered about 7 percent of the AFDC payments made to children with an absent parent.

The National Governors' Association strongly supports efforts to improve the enforcement of court-ordered child support. We believe that continued federal financial support for the administration of an enforcement program is vital. Structured incentives will speed the implementation of new statutory and administrative tools.

We support the intent of current legislative proposals to improve state efforts to collect child support payments owed to children in both welfare and non-welfare families. Current collection efforts have been aimed primarily at collecting obligations owed AFDC families. Improved collection efforts will prevent many non-AFDC families from becoming dependent on public assistance. A recent University of Wisconsin study found that up to 300,000 children could be lifted out of poverty if the child support enforcement program were improved. It is therefore an extremely important preventive measure. The child support enforcement program should work equitably and promptly for the non-welfare segment of the population.

My own State of New Jersey has a successful program to collect payments from non-AFDC parents. In 1982, we collected 9.8 percent of all non-AFDC collections nationally. We know that there is a tremendous need for this service. Within the last year alone the number of non-AFDC cases participating in New Jersey rose from 75,000 to 85,000. Without this assistance many of our children would be denied the needed support to which they are entitled.

While the states have made substantial progress, we are still making collections for only about 10 percent of the cases referred to state agencies. Further, thousands of other cases await the determination of paternity and securing appropriate support orders.

We believe that additional improvements are possible and the Governors are prepared to lend their support and leadership to those efforts. We recognize that there is wide variation in state performance under the child support enforcement program. Federal legislation can provide a framework for strengthening and improving states' current performance. However, while Federal legislation should recognize effective state child support collection efforts, it is essential that the Federal Government not preempt those successful efforts. You have before you several proposals aimed at this objective.

I will address my comments to two of the bills now before you: S. 1691, the Administration's child support enforcement legislation, and H.R. 4325, the House-passed Child Support Enforcement Amendments of 1983. I want to commend Secretary Heckler and the Administration for recognizing the need for a strengthened program, and placing child support enforcement among the Administration's legislative priorities. I also want to congratulate members of the House for reporting and passing overwhelmingly H.R. 4325. In New Jersey we are especially proud of Marge Roukema's active leadership on this issue.

Both S. 1691 and H.R. 4325 contain elements which address problems of serious concern to the Governors. Both give new attention to techniques which have been proven effective in collecting child support obligations. Most states are working hard to improve child support enforcement and many have already acted to implement procedures recommended in both the House and Administration bills. The Governors are, however, concerned with proposed changes in financing and with new federal mandates.

The Governors believe that improvements and expansion in child support enforcement will be in serious jeopardy unless the federal matching rate of 70 percent for state costs of administering the program is maintained. The Administration's bill would reduce the administrative match to 60 percent and repeal the 12 percent incentive payment. Because of the 10 percent reduction in administrative match, it appears the impact would be a shift of administrative costs to the states.

We are further concerned that the incentive payment program proposed in S. 1691 would be detrimental to local governments which have a large responsibility for administering the program. The Administration's bill would make funds for incentive payments subject to the appropriations process. This would create financial uncertainty for local governmental units which have less financial flexibility than other levels of government, and which need a stable funding source. Therefore, the National Governors' Association opposes this financing structure.

The NGA favors the provision of H.R. 4325 which retains the 70 percent administrative matching rate as well as providing a guaranteed incentive payment. This approach is beneficial because it would be enable states to expand their existing programs by providing adequate guaranteed funding for administrative expenses rather than having to depend on possible incentive payments. It would also reward states commensurate with performance.

While the National Governors Association welcomes the House approach which attempts to balance incentives for both AFDC and non-AFDC performance, I personally believe it may be strengthened. In my view this legislation does not adequately recognize the efforts of states which already have a strong collection effort for non-AFDC obligations. I believe this is contrary to the intent of the legislation. There are several ways in which to modify the incentive formula to ameliorate this situation. New Jersey believes that the problem be resolved by lifting the ceiling on non-AFDC collections to 150 percent of the state's incentive payment for AFDC collections from the 125 percent proposed in H.R. 4325. There are other solutions which I would be happy to discuss with you. Senator Bradley has a major interest in this issue and we have already had discussions in this regard.

I also believe that incentives for child support programs could also be made more effective if H.R. 4325 excluded legal fees as well as lab fees in computing incentive payments and excluded the cost of development and improvements for automated systems.

Many states have already acted on their own to implement enforcement procedures which would be mandated by S. 1691 and H.R. 4325. These procedures include income withholding, state income tax refund intercepts, and quasi-judicial administrative procedures. Under a typical income withholding provision, the absent parent's salary may be attached if a court-ordered obligation is in arrears. The state income tax refund intercept enables the state to attach a refund if a parent's payment is past due. The quasi-judicial or administrative procedure uses hearing officers or an executive agency to determine child support duties and to establish and enforce orders. This is done outside the court system and a decision as to support is made by an administrative law judge or a hearings officer. The states have implemented these procedures as follows:

Eight states had mandatory income withholding laws prior to 1982. Nine others amended their discretionary income withholding laws in 1982 to strengthen the withholding process. Twenty-six other states have discretionary income withholding statutes which are similar to mandatory orders, but which allow a court the option to consider individual circumstances.

Over the past three years, the number of states implementing a tax offset program has increased more than threefold -- from 8 to 27 -- and collections have more than tripled -- from $9.5 million in FY80 to nearly $31 million in FY82. An additional 11 states have legislation for an offset program but, as of July 1983, had not yet implemented one.

The kinds of payments which may be offset vary with the state. While in most states, only income tax refunds are offset, a few states include other payments. Examples include property tax refunds (Oregon and Minnesota), and a homestead tax rebate (New Jersey). Some states also offset arrearages of their employees by applying offset procedures to salary checks, travel reimbursements, and retirement payments.

At least fourteen states have quasi-judicial or administrative procedures to ensure prompt adjudication of the increasing volume of child support cases. The individual states decide what aspects of administrative law would benefit their child support enforcement activities in a manner consistent with their existing laws and public policy. Nine other states utilize procedures which are essentially an arm of the court to ensure prompt payment of support obligations.

The House-passed bill recognizes the variation among states' judicial systems by requiring improved procedures for the establishment and enforcement of support without actually mandating a quasi-judicial or administrative procedure. The Governors are committed to working with legislatures and the courts to improve state procedures.

Many of the enforcement measures recommended in S. 1691 and H.R. 4325, such as state tax withholding and automatic wage garnishment, are already in place in New Jersey under state laws. As a result, New Jersey collections have increased nearly 80 percent since 1978, increasing from just under $80 million in 1978 to over $140 million in 1983. Collections for the AFDC segment are up 114 percent.

These examples show that states are committed to developing programs to increase child support collections while minimizing administrative costs. The National Governors Association believes states should have the flexibility to achieve these objectives -- which are the same objectives you seek -- with a minimum of Federal mandates. Our concern with mandates has several aspects.

First, family law has traditionally been the responsibility of the states. State legislation establishes the legal right to support and governs the ways in which these rights may be enforced. Related areas from paternity to spousal support to debt collection are also governed by state law. We are concerned about the constitutional ability of the Federal government to mandate action in these areas.

Second, the current network of family, business, and tax law is extremely complex and detailed. While certain general principles apply throughout the nation, the details of the law vary considerably from state to state.

Third, it has been the consistent policy of the Governors that the Federal government should not mandate specific organizational structures or administrative arrangements, but leave these decisions to the discretion of individual states.

In addition to the items already listed, the National Governors Association supports several of the provisions in both the House and Administration bills which provide additional resources and/or flexibility to the states: 1) federal support for information systems at the 90 percent match rate should continue and there should be additional flexibility in the use of those funds; 2) the provisions allowing increased access to the Federal Parent Locator Service are greatly needed; and 3) we support the extension of Section 1115 waiver authority so states may conduct experimental and demonstration projects. Furthermore, we welcome the availability of $15 million authorized by the House bill for special projects concerning interstate collections.

We are not convinced, however, that a State Commission on Child Support, as mandated in the House bill, is the most effective approach to ensuring that the Governor be able to oversee the operations of the child support enforcement system. Although a state may have this requirement waived by the Secretary of Health and Human Services, or eliminate the need for a new commission by showing that it had a similar commission in the last five years or has in place objective standards for child support obligations, we still see no need for the mandate. If a provision for such commissions is in the final legislation, it should be optional.

Let me summarize by saying that the NGA strongly supports the child support enforcement program. We support provision of adequate financial resources to expand the program and improve collections for both AFDC and non-AFDC families. We believe states should adopt procedures which enhance their existing child support enforcement efforts, and that the Federal government should give states the flexibility to use methods appropriate to their individual needs. We need to be careful to avoid unreasonable expectations and to keep demands upon the system within reason.

On a final note, I am pleased to announce that the NGA's Committee on Human Resources will focus on the child support enforcement problem during its regular winter meeting on February 27, 1984. At that time we hope that Secretary Heckler will be able to join the Governors in a thorough review of this program and in the exploration of how Governors can act to make their own state programs more successful. Following that meeting we will continue to work with state associations and the Office of Child Support Enforcement in the Department of Health and Human Services, in order to improve efforts to provide additional information and technical assistance to states to increase the effectiveness of state programs.

I would be happy to answer any questions.

The **Chairman**. Governor, thank you very much.

First, let me yield to Senator Bradley from New Jersey. He is one of your constituents.

Senator **Bradley**. Yes; I have welcomed him to the committee and did so sincerely and openly, and I think that his statement today is something that we all should look at very carefully.

The track record we have had in New Jersey is an excellent one, and from what you have said today, that is in large part due to the fact that a lot of the measures that the Federal bill now mandates already exist in New Jersey. Is that not correct?

Governor **Kean**. That is correct.

Senator **Bradley**. On the issue of whether it should be directed at only AFDC or non-AFDC, you come down strongly on the side that you should go after an absent parent who isn't paying child support, wherever he or she might be. Is that not correct?

Governor **Kean**. Absolutely. We know that there are an awful lot of people who are not categorized right now as AFDC but are pretty close to the margin. And if we don't enable them to collect the money that is actually owed to them, many of these will slip onto AFDC. So a lot of it is preventative, and a lot of it is cost-avoidance, and simple justice, also.

Senator **Bradley**. The House bill provided for a 125-percent cap of the AFDC costs for the non-AFDC cases. Now, is that something that you suggest raising to 150 percent? For the committee's thought process, what is your rationale for that?

Governor **Kean**. Well, simply to provide the kind of incentives that I think States are going to need to go after the non-AFDC parents. The 150 percent we believe would adequately take care of the problem of making sure that States really did go after this very, very important part.

George, how much have we collected on non-AFDC?

Mr. **Albanese**. $102 million.

Governor **Kean**. We have already collected $102 million on non-AFDC parents. It's out there, and I think States just need the incentive to do it. The 150 would do it; 125 would be very questionable.

Senator **Bradley**. The Finance Committee provided a little blue booklet, as they always do, as to how much each State got from non-AFDC and AFDC, and in New Jersey it was clear that the bulk of the payments came from non-AFDC. I might say it is also true in Louisiana. So it is very important that we make sure that any bill that we pass does go for the non-AFDC parent. We will look very carefully at the extra payment that you think would be necessary.

You and the Governors do support keeping the present Federal match at 70 percent.

Governor **Kean**. Yes.

Senator **Bradley**. So, you would oppose any efforts to cut to 65 or 60 percent?

Governor **Kean**. Yes; we would very strongly support that. And, again, we feel it is essential to make sure the program works adequately.

Senator **Bradley**. What is the status of the resolution that you introduced at the National Governors' Conference on this?

Governor KEAN. My hope is that that resolution supporting your efforts will be passed at our meeting in February. It has been cleared by the necessary staff and committees—and we have our own there, also. My hope is that it will be passed by the Governors as a whole in that February meeting.

Senator BRADLEY. Thank you very much for your testimony on behalf of the Governors and for the good work in New Jersey.

Governor KEAN. Thank you, Senator.

The CHAIRMAN. Senator Long?

Senator LONG. Governor, when this committee first got involved in trying to have an effective child support program, the non-AFDC part of it was, to a considerable degree, looked upon as an effort to keep people off welfare. But the more I have had occasion to think about it and the more we conducted hearings on these matters it became clear to me, and I would hope to you and all others, that this isn't just a matter of keeping families off welfare, it is a matter of doing justice to mothers and children. As you said on page 1 of your statement, more than $4 billion in child support payments are in arrears on an annual basis.

Now, every one of those checks that do not arrive is a momentary disaster for that mother and those children, and it is just too easy for a father to put child support further down the list in priority. It almost makes me think of the story about the old man who had a mule. That mule was about to starve, his ribs were sticking so far out. Someone asked him why didn't he do more to maintain that mule, and he said, "Well, I always flip the coin to see, when I get a few bucks in hand, whether I buy that mule some feed or whether I buy myself another drink down at the bar, and the mule just has had a very long run of bad luck." [Laughter].

Too many fathers have been inclined to look upon the support of their children that way, just to put it out of their minds. It is time we focus on that. It is a national problem. We ought to all work together on it.

I am all for respecting the principle of States rights if the States want to do the job. But I worked for a State government before I had the privilege of working for the Federal Government, and I don't think that we ought to wait forever for somebody to do his job. If the other guy doesn't do his job, after a while we ought to just assert our authority and do it for them.

This is one area where in years gone by the Secretaries of HEW have been just too happy to push this thing off on the States. They were all for the State legislatures and Governors doing their job, but they didn't want the Federal Government to have to struggle with it. But in the last analysis, if we can't get the States to do it, I honestly think we would be doing what the people of this country want if we just legislate by Federal fiat to do the job. Do you think we can get 50 States of their own volition to go ahead and do the kind of thing you have done in New Jersey?

Governor KEAN. I can't promise you that 50 States would do the job in the way they are supposed to, Senator. I think the vast majority of them would, and I think the vast majority of them have programs now which they are implementing which are on the way to doing the job. But we need Federal help, there is no question about it, and that is why I am here supporting your efforts.

Senator **Long**. Well, from my point of view I feel that, as far as the taxpayer is concerned out there, the people who are affected by these laws—be they Federal or State laws—they are paying your salary, just like they are paying Senator Bradley's salary and the President's salary, and they are entitled to get some results. They are entitled to have justice done in this country, and they want it done. They want to see done what is right. I don't think they are too much concerned if the Federal Government puts up the money to pay some of the expenses of urging and making it attractive for the State to do a job that the public agrees should be done. So it doesn't bother me particularly that the Federal Government pays a big part of some of the costs.

Prior to the time we passed some of these liberal matching arrangements like the 70 percent rate we now have, that currently the administration would like to cut back on, we just weren't getting anywhere; the incentive wasn't adequate. Well, if the incentive is not adequate and you think a job ought to be done, you ought to increase the incentive to see if it won't work.

Governor **Kean**. That is our point very strongly. If the incentive is there, and the incentive is proper, the job will be done. That is why we are so concerned in our testimony that these incentives are there, so that the program doesn't break down somewhere down the line after you have passed it.

Senator **Long**. In the last analysis, as far as the public is concerned, they think that these little children should be taken care of, and their fathers ought to be made to make the payments. It saves government money and it saves taxpayers money if you make these fathers contribute rather than leaving it up to the taxpayer to have to pay for the children's support.

That being the case, my thought is that the taxpayer doesn't really care whether the Federal Government pays 70 percent and the State pays 30, or whether it is 60/40 or 65/35. I don't think they care. I think they feel the job should be done. If you were one of those runaway papas, you might figure that the job shouldn't be done on any basis. It just depends on which side you are going to come down on. But if you are for it, I think we should do enough to make it work.

Governor **Kean**. You are right, Senator.

The **Chairman**. Thank you very much, Senator Long.

Governor, the Federal Office of Child Support Enforcement recently issued cost-effectiveness figures for fiscal year 1982. These figures illustrate the wide discrepancies in State programs. Iowa, for example, collects nearly $3 in AFDC child support for every $1 in administrative expenditures; the poorest State performer collects only 37 cents for every $1 in costs. The national average is $1.33 for every dollar in administrative expense. Now, what factors do you believe contribute to this wide variation? I don't know what it is in New Jersey—I am sure we have it.

Senator **Bradley**. Four.

Governor **Kean**. We are four-to-one in New Jersey.

The **Chairman**. Do you think the legislation we have before us is going to improve that performance? Actually, it is pretty hard to justify a program where you get back 37 cents on the dollar.

Governor KEAN. Part of the answer is one of the things we are finding now in New Jersey: We are getting into automation in a very important way. We had to do everything originally by hand, and I suspect that a number of these States are doing everything by hand.

Now, when you do everything by hand, as you know, you increase your costs tremendously, and frankly increase your inefficiencies, also, tremendously. I think one of the reasons we are now establishing a very good ratio in New Jersey is that we are starting to automate and continuing to automate. We have a program now which is going to be fully automated, and we expect to improve our ratio considerably when the program is fully under control. George tells me we expect to increase our program by $18 million when we are fully automated.

So, I am sure that is one of the causes. And this argues again for increasing the incentives to the States to automate.

What the other factors are and those kinds of figures, I don't know; but I know when you do collect these moneys, I think it is an overall bonus for the Federal Government and the country.

Senator LONG. Could I just make one interjection there?

The CHAIRMAN. Certainly.

Senator LONG. I have been discussing this with some of our staff members. These figures can be misleading, because in some States such as in Louisiana, we have a high number of paternity cases. We have a lot of cases of illegitimacy, and so we have a high number of cases where the determination of paternity is a major part of the cost. Now, that is a cost that is heavy up front; but in the long run, having determined paternity, you then save a great number of dollars later on.

It has been suggested—I have suggested it myself because it has been suggested to me—that we should separate out the cost of determining paternity from the other administrative expenses; because, whatever it costs to determine the paternity, it is a cost that should be borne and we ought to arrange to pay for that. Then you can see whether you are getting efficiency on administering the program, you can look at the rest of your expenses to see how efficient you are in child support enforcement and the collection.

Governor KEAN. Senator, just to illustrate what you are saying, to establish paternity in the State of New Jersey costs us $4,000.

The CHAIRMAN. I don't quarrel with that, but we are getting into how much money the Federal Government should contribute. It seems to me that the CSE program is already rather generous by providing a 70-percent match for administrative costs. We also pay incentives of 12 percent of AFDC collections and we provide a 90-percent match for computerization costs. The bill passed by the House does even more. And yet, the National Governors' Association still argues that the program's financial aspects must be liberalized. The program already operates at a deficit to the Federal Treasury of over $130 million in fiscal year 1983.

We see that Delaware is cutting taxes and making refunds. Other States have surpluses in their treasury. In the Sunday Washington Post, in Outlook Section, there was a piece by four Governors—two Republicans and two Democrats—demanding that the Congress reduce the Federal deficit. Yet every time a National

Governors' Association witness shows up he wants more Federal money. Now, you can't have it both ways. The article says, "There is a cry from the heartland, 'Deficits will impoverish our grandchildren,' "—signed by Governor Lamb, Governor Janklow, Governor Matheson, and Governor Snelling.

We do have a big problem, it's called "the deficit," about $200 billion a year. I would like to figure out some way to reduce the Federal financial role in the child support program and without reducing its effectiveness.

Governor **Kean**. Senator, first of all, I don't think we ought to penalize those who are doing a good job in a program like this.

The **Chairman**. No; I agree with that. I think we should draft a formula in which we don't end up picking up the entire tab because there is no incentive for the States to do so. We have to find some way to reduce the Federal cost.

Governor Kean. I didn't see that article.

The **Chairman**. Well, it is a good article. I agree with it; I may even put it in the record.

Governor **Kean**. I might say one thing. You know, every one of us, as Governors, has been on such a roller coaster for the last year. Last year in my own State we were deep in the recession and were forced to cut programs in education and all the other areas all of us would consider were essential. We were forced to figure which ones to cut.

This year, because of the national recovery, we got some funds to restore some of those programs.

What we are concerned about in the National Governors' Association is this kind of a roller coaster, and we are very concerned—and you have taken the leadership on this—about supporting whatever we can to reduce that kind of roller coaster in the future by taking a crack at the debt.

The **Chairman**. All right. No, I don't have any quarrel with what the Governors have done; as you say, I think they have had their ups and downs. Things are starting to improve in many States. But I do believe in all these programs that there has got to be some way we can shrink the Federal cost—not in a major way perhaps, but at least, rather than to have the cost keep going up, we ought to at least level it off.

Senator Bradley.

Senator **Bradley**. Could I interject there?

The **Chairman**. Certainly.

Senator **Bradley**. Mr. Chairman, just to give us some sense of the cost and also how comprehensive a program has to be before it actually yields benefits to us, do you have any sense of what the New Jersey program would have yielded had you not had, in place, all of the things that are now being put into the Federal law for the first time—things like wage withholding and intercepting tax refunds? It seems to me that if we look at the issue in that way, we see that, as CBO says, this could produce Federal revenue and not lose Federal revenue over time.

Then, if you look at the point you made about computerization, the Federal Government pays 90 percent of that cost now, and you have told us in New Jersey that means $18 million more. Now, that is a pretty good return on investment.

Governor KEAN. And that is $18 million a year. It is a very good return on investment.

The CHAIRMAN. I think there are some offsetting advantages, but you know we are struggling here. Everybody tells us we ought to do something, but everybody who comes before the committee wants a tax break or more spending. I don't think anybody has volunteered to say, "Cut my program."

Governor KEAN. On the general point I couldn't agree with you more. But this particular program is one that I believe brings dollars to the Federal Government and doesn't take dollars away from the Federal Government.

The CHAIRMAN. That is a good line; a lot of people use it. [Laughter.]

Senator BRADLEY. Especially when a tax bill is on the floor.

The CHAIRMAN. Yes.

Governor, we thank you very much. You have done an outstanding job, and we appreciate it.

Governor KEAN. Thank you very much, Mr. Chairman.

The CHAIRMAN. Next, I see our colleague Senator Proxmire here to introduce Tom Loftus, the speaker of the Wisconsin House of Representatives.

I am wondering, Senator, after you introduce Mr. Loftus, if I could let Pat Schramm testify. She has a 5 o'clock train to catch to Delaware.

Senator PROXMIRE. All right.

The Chairman. Why don't you go ahead and introduce the speaker. He may have a plane to catch, too. Why don't you come on up. Patricia Schramm, do you want to come up, too?

Senator PROXMIRE. Mr. Chairman, I am delighted to have an opportunity to introduce the speaker of the Wisconsin State Assembly. I think he is the youngest speaker we have ever had in our State, a very brilliant man who may be sitting in your chair or maybe in my chair—much more likely—in the future, if he has that kind of interest. He has done a marvelous job as speaker of our assembly. We are very, very proud of him. He is not only young, he is also extraordinarily intelligent and responsible, and he is perfect—he is a Democrat. [Laughter.]

The CHAIRMAN. I thought he had something wrong with him. [Laughter.]

Senator PROXMIRE. Wisconsin is planning to undertake a major experiment with its child support system, and Tom Loftus deserves the credit for it. It is an experiment which the House Ways and Means Committee felt was so innovative that section 15 of the House bill, H.R. 4325, provides a statutory exemption to permit this program to go forward.

Tom sheepherded this through the State legislature. It has two major thrusts: First, assuring that absent parents do not escape their obligations, and that the obligations assessed are uniform within the counties in which this experiment is conducted. This takes child support out of bargaining and divorce settlements.

Second, the establishment of a minimum guaranteed benefit for each child who has an absent parent. This would begin with the absent parent's contribution and add to it the contribution of the custodial parent, and only when these two contributions are less than the guaranteed benefit would the taxpayer assist the family.

Now, this should cost less, and there is a provision in the proposal that Mr. Loftus makes that will guarantee it will not cost the Government more—there is no way this can cost the Federal Government more.

The Wisconsin proposal is an exciting one. I hope you can give it the same careful bipartisan consideration it received from the House Ways and Means Committee. Tom not only speaks for Wisconsin, he also speaks for the National Conference of State Legislators.

It is crucial for Wisconsin and the Nation for this experiment to go forward. It will require the guarantee of an exemption, just as the House bill has provided, and not the vagary of relying upon the good will of the Department to grant a waiver.

I appreciate very much, Mr. Chairman, your giving me this opportunity to introduce Tom and to call your attention to a proposal that I am sure you are delighted to hear will not cost more.

The **CHAIRMAN**. Right. We welcome those, as I am sure the Senator from Wisconsin does. You are one of our allies on trying to reduce the deficit, so we appreciate it.

Senator **PROXMIRE**. Thank you very much.

The **CHAIRMAN**. Tom, do you mind if I just give Pat Schramm a couple of minutes? She has a 5 o'clock train to catch to Delaware.

Pat, if you could summarize and put your full statement in the record, we will be able to accommodate you.

STATEMENT OF PATRICIA C. SCHRAMM, SECRETARY OF THE DELAWARE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, AND CHAIRPERSON, NATIONAL COUNCIL OF STATE PUBLIC WELFARE ADMINISTRATORS, AMERICAN PUBLIC WELFARE ASSOCIATION

Ms. **SCHRAMM**. Thank you very much.

My name is Patricia C. Schramm, and I am secretary of the Delaware Department of Health and Social Services. I appear before you today as chairperson of the National Council of State Public Welfare Administrators, which is a component of the American Public Welfare Association. That council represents executives of State human service agencies responsible for the administration of child support enforcement as well as many other income, health care, and social service programs.

I am very grateful for this opportunity to present our views on child support reform, and I can give you, very briefly, some points that we feel are worth noting from an administrator's point of view.

We believe, as I think does everyone else, that all children, both those receiving welfare and those not receiving welfare, have an equal right to be financially supported by their parents to the fullest extent possible. We believe this right has to be secured by fair and effective laws, so that the public as a whole doesn't end up bearing an undue and avoidable burden for supporting children through public assistance. We took a major step forward as a country in 1975 in establishing a child support enforcement law, and we have an opportunity to take further strides forward with the strengthening of that law this year.

I am going to lay out just a few issues that we believe should be handled in the Federal law to enhance child support enforcement:

First, the issue of financing child support enforcement. State administrators believe very strongly that the current 70-percent Federal match for the State and local costs of administering the program should remain unchanged. This basic match, as you know, was lowered from 75 percent about 1 year ago and is the single most important reflection, we believe, of the Federal Government's commitment to child support enforcement. A reduction at this time would severely impair our ability to make the improvements that we need for a more effective program.

As an aside, what happens to an administrator when the Federal percentage goes down, generally speaking, is that he or she loses staff and resources to implement the program, and that becomes counterproductive.

If the objective of legislative reform is to strengthen the program, then revising the current system of incentive payments to States in our judgment would be far more effective than lowering the basic match. When combined with certain procedural reforms that I will discuss in a moment, a new system of incentives specifically designed to shore up the weak parts of the program offers a far surer route to better overall performance.

We believe that changes in the incentives should be guided by three principles: First, a new or modified incentive structure should be based on the full range of a State's enforcement responsibilities, including paternity establishment and interstate collections. Second, collection efforts on behalf of non-AFDC families as well as those receiving AFDC should be rewarded, with the incentive system maintaining an appropriate balance between the two. Third, there should be a transition period giving the States a reasonable amount of time to make the necessary adjustments in their programs before any new incentives go into effect.

I would like to briefly mention two other financing issues of concern to the States: Enhanced funding for information systems development and charging for the cost of non-AFDC services.

The State human services administrators urge that you continue the current 90-percent match for the development of child support information systems. Preservation of enhanced funding will enable the States to establish clearinghouses and central registries into which support can be paid, recorded, and forwarded to custodial parents. The higher match will also help States supply data needed for a more complete picture of performance than is currently possible. We do, however, ask that the law be clarified to permit the use of the 90-percent funding for the purchase of hardware.

We also recommend retention of the existing State option in non-AFDC cases to charge an application fee and an additional fee to recover other administrative costs involved in these cases. Since States have had only mixed success with such fees, converting the option into a mandate as the administration has proposed would make little sense.

In addition to better-targeted financial incentives, there are a variety of administrative techniques that could help augment the program. They include mandatory withholding, voluntary withholding, State income tax intercepts, quasijudicial administrative procedures, and a number of other methods that have been mentioned here today. I think we are, in general supportive of those things which are called for in the House bill.

If such techniques are to be incorporated into the legislation, however, we believe that States should be given a reasonable measure of flexibility in adopting those practices best suited to their individual circumstances, and we think that can be achieved in several ways.

Basically, what we are saying is that these proposed improvements, which we endorse as a group, should not all be made mandatory. Rather, it should be up to each State to decide which of them should be adopted to improve its program.

I think that best summarizes our position. I appreciate the opportunity to be here, and I very much appreciate your allowing me to catch my train.

The CHAIRMAN. We may have some questions which we might submit in writing for you to answer.

Ms. SCHRAMM. I would be happy to.

The CHAIRMAN. And we will certainly work with you and the national council as we try to develop legislation that we can all support. Thank you very much.

Ms. SCHRAMM. Thank you.

The CHAIRMAN. Thank you very much, Mr. Loftus. We will now hear from you.

[Ms. Schramm's prepared statement follows:]

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TESTIMONY OF

PATRICIA C. SCHRAMM

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AND

CHAIRPERSON, NATIONAL COUNCIL OF STATE PUBLIC WELFARE ADMINISTRATORS

FOR THE

COMMITTEE ON FINANCE

U.S. SENATE

HEARINGS ON CHILD SUPPORT ENFORCEMENT

JANUARY 24, 1984

NATIONAL COUNCIL OF STATE
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SUMMARY OF TESTIMONY BY PATRICIA C. SCHRAMM ON BEHALF OF THE NATIONAL COUNCIL OF STATE PUBLIC WELFARE ADMINISTRATORS

- The child support enforcement program has made substantial headway during the past several years but more can be done to strengthen its performance. State human service administrators are committed to working with the federal government toward this end.
- The basic federal match for the state and local costs of administering child support enforcement should not be altered. The match was cut little more than a year ago; a further reduction will substantially impair the ability of states to make the changes needed to improve the program's performance.
- Modifications of the financial incentives states receive for collecting child support and adoption of certain procedural reforms offer the best hope of enhancing the efficiency and effectiveness of child support enforcement.
- New Incentives should reflect the full range of a state's enforcement responsibilities (including the critical areas of paternity establishment and interstate collection), reward both AFDC and non-AFDC performance, and be phased in so that states have time to make the necessary adjustments in their programs.
- States should have reasonable flexibility in adopting new enforcement practices that have proven effective such as income withholding when payments are delinquent, state income tax intercepts, quasi-judicial and administrative alternatives to court action, objective standards for setting support amounts, and other promising methods.
- Section 1115 demonstration authority should be extended to the Title IV-D program.
- States should not be required to set up and expend resources on Commissions to examine and make recommendations for improving child support enforcement. This should be a matter for states to decide for themselves.
- The federal income tax intercept should be available for use in non-AFDC situations.

My name is Patricia C. Schramm, and I am the secretary of the Delaware Department of Health and Social Services. I appear before you today as the chairperson of the National Council of State Public Welfare Administrators, a component of the American Public Welfare Association. The Council represents the executives of the state human service agencies responsible for administration of child support enforcement, as well as many other income, health care, and social service programs.

We are grateful for this opportunity to present our views on reform of the child support enforcement program. The state human service administrators believe that all children--both those receiving welfare and those not--have an equal right to be financially supported by their parents to the fullest extent possible. This right must be secured by fair and effective public laws, so that the public as a whole does not end up bearing an undue and avoidable burden for supporting children through public assistance. The sound enforcement of child support is essential to ensure the economic well-being of children in our society.

The United States took a major step forward in recognizing a child's right to parental support with enactment of Title IV-D of the Social Security Act in 1975. For the past eight years, this law has provided the framework within which it has been possible for the states to make substantial progress in establishing and enforcing the support obligations of absent parents. Since 1976 the amount of support collected by states has risen threefold. Today, for every public dollar spent on administration, the program returns three dollars in collections.

Yet, despite the strides that have been made, the experience of these past eight years has also shown us where the program needs strengthening if it is to fulfill its original promise. State administrators are firmly committed to making the changes needed to improve performance and are eager to work with the Congress and the administration toward this end.

In this testimony, I will lay out what we believe should be done in federal law to enhance child support enforcement. Our views are grounded in at least two basic convictions. First, a stronger Title IV-D program will only result if the three levels of government collaborate in making it so. We must pursue program improvement as a shared responsibility. And second, the success of whatever changes Congress ultimately agrees to, will depend on the degree to which these changes accommodate the inherent legal, organizational, and political complexity of child support enforcement. A careful, measured legislative response to the need for change, rather than a full-scale overhaul, will likely produce the best results for all concerned--policymakers, public administrators, the courts, and, most important of all, children and their parents.

With this as background, I would like to turn first to the issue of financing the child support enforcement program. State administrators believe strongly that the current 70 percent federal match for the state and local costs of administering the program should remain unchanged. The basic match, which was lowered little more than a year ago from the original 75 percent authorized in law, is the single most important reflection of the federal government's commitment to child support enforcement. A reduction in the federal contribution at this time would substantially impair the ability of states to make the improvements needed for a more effective program. It would also treat states unfairly, since there would be no consideration of a given state's past and current performance, fiscal capacity, and financial condition. With the nation just emerging from a recession, the fiscal health of the states remains uncertain, and the further loss of federal money could have adverse effects beyond Title IV-D.

If the objective of legislative reform is to strengthen child support enforcement, then revising the current system of incentive payments to states, in our judgment, would be far more effective than lowering the basic match. When combined with certain procedural reforms that I will discuss shortly, a new system of incentives specifically designed to shore up the weak parts of the program--principally, collections for children not receiving AFDC--offers a far surer route to better overall performance, since it rewards rather than punishes and homes in on those things needing change.

We believe changes in the incentives should be guided by three principles:

> First, a new or modified incentive structure should be based on the full range of a state's enforcement responsibilities, including paternity establishment and interstate collections. Establishing paternity, although typically expensive, is an indispensible component of an effective program and should be encouraged by not having its high costs count against a state's incentive funding. The same can be said for interstate collections, which--because they involve complex interactions across state lines--often entail more time, effort, and resources than other cases.

Second, collection efforts on behalf of non-AFDC families, as well as those receiving AFDC should be rewarded, with the incentive system maintaining an appropriate balance between the two. Giving equal recognition to non-AFDC performance is consistent with the original intent of Title IV-D and should, by spurring greater enforcement efforts, help improve the economic well-being of many mothers and their children who, though not on welfare, still live on inadequate incomes.

And third, there should be a transition period giving states a reasonable amount of time to make the necessary adjustments in their programs before any new incentives go into effect.

We find that the incentive structure spelled out in the House bill generally accords with these three guidelines.

I would also like to briefly mention two other financing issues of concern to the states--enhanced funding for information systems development and charging for the costs of non-AFDC services.

The state human service administrators urge you to continue the current 90 percent match for the development of child support information systems. Preservation of enhanced funding will enable states to establish clearinghouses and central registries into which support can be paid, recorded, and forwarded to the custodial parent. Such systems can contribute to overall program efficiency, and are particularly valuable in the management of an income withholding policy, which I will discuss momentarily. The higher match will also help states supply the data needed for a more complete picture of performance than is currently possible. We do ask, however, that the law be clarified to permit use of the 90 percent funding for the purchase of hardware. This clarification, which we believe is what Congress intended, will resolve confusion that has arisen over the types of state expenditures that are matchable.

We also recommend retention of the existing state option, in non-AFDC cases, to charge an application fee and an additional fee to recover the other administrative costs involved in these cases. Since states have had only mixed success with such fees, converting the option into a mandate as the administration has proposed, would make little sense. Continuation of the option will allow states to impose fees only when and where doing so is feasible without overcomplicating the program, deterring participation, or jeopardizing other efforts to strengthen performance. Use of the section 1115 demonstration authority in the Social Security Act should be made to determine the structure and conditions necessary for fees to be truly effective.

In addition to better targeted financial incentives, there are a variety of administrative techniques that may help to augment child support enforcement in the various states. These include mandatory income withholding when an absent parent has been delinquent with payment, voluntary withholding, state income tax intercepts, quasi-judicial or administrative procedures to establish and enforce support obligations, scientific testing to determine paternity, use of security, bond, or other guarantee to secure support, and development of objective standards for setting support amounts. If such techniques are to be incorporated in legislation, we believe the states should be given a reasonable measure of flexibility in selecting those practices best suited to their individual circumstances. This can be achieved in three ways. First, a state should be required to adopt a minimum number, but not all, of the techniques that would be listed in legislation. For example, the law could mandate a state to implement no less than five of the seven procedures I cited a moment ago. Second, a state should not have to adopt a technique if it can demonstrate that the practice would not improve child support collections or that an alternate approach would be more effective. And third, flexibility should entail a minimum implementation period of two years, so that states would have sufficient time to obtain necessary approval from their legislatures of the changes they want to or must make.

I also have some brief comments on a few of the techniques themselves.

Of the seven I have noted, mandatory income withholding has probably received the most attention so far in legislative deliberations. The state administrators believe withholding can be a successful way to assure payment of support when absent parents fail to pay on time or at all. It can guard against the accumulation of arrearages and permit the custodial parent to budget family income with greater certainty than would otherwise be the case. An issue of some concern has been the point at which withholding should begin. We believe it should be triggered no later than after two months' of delinquent payments have accrued, with states having the option to set a shorter time period. This approach would give states at least some flexibility to adjust a withholding system to their particular child support caseloads and administrative situations.

State income tax intercepts have proved effective in states that have instituted them. Other states with income taxes should be encouraged to adopt this technique. In addition, we would recommend that states be given the option to use the intercept in non-AFDC cases. Similar authority to apply the federal income tax intercept in non-AFDC situations should be extended to the Department of Health and Human Services (HHS) and the states. We need a full range of administrative tools to enforce support obligations on behalf of those women and children not on welfare, who apply for Title IV-D services, if we are to succeed in strengthening performance in this part of the program. A study of the possible effects of broadening the use of the federal intercept has been undertaken by the Internal Revenue Service, which has expressed concerns about the administrative burden wider application of the intercept could entail. We urge the IRS to make the results of that study available in time for Congress to fashion an informed decision this year about the intercept.

Quasi-judicial and administrative procedures to establish and enforce support obligations have also been shown to be useful in states that have employed them. Such procedures can speed up support decisions, lighten the burden on overworked courts, foster a less adversarial climate for determining custody and visitation rights, and encourage the development of expertise in resolving child support disputes. Questions have been raised about the ability to assure due process when quasi-judicial or administrative practices are employed. Since any change along these lines must be included in a state's Title IV-D plan, we believe HHS possesses sufficient powers of oversight to assure that inappropriate procedures are not established. Moreover, extra protection is afforded in the case of quasi-judicial procedures, since the courts must review the decisions reached by this method.

To further stimulate the development of cost-effective enforcement practices, state administrators ask that you extend the demonstration authority of section 1115 to the Title IV-D program. This authority could be used to encourage states to test innovative support systems of the type now underway in Wisconsin, automatic mandatory income withholding (as opposed to waiting for arrearages to occur), use of consumer credit bureaus, alternative fee structures for non-AFDC cases, and other promising techniques. States have responsibly used section 1115 in other areas, and there is no good reason why it should not be extended to child support enforcement, especially in light of the strong congressional interest in a better performing program.

One final major issue worth discussing is the proposal in the House bill for state child support commissions to examine and make recommendations for improving the entire enforcement system. Given the other substantial changes being contemplated for legislation this year, many of which state administrators favor, we are hard-pressed to see the value of further complicating state responsibility with the mandate for a commission. The individual states are in the best position to determine whether this additional step would contribute substantively to the evolution of their enforcement systems. If, despite the sound arguments against it, the commission mandate stands, then states should be fully reimbursed for all of the costs involved.

Finally, there are several other less controversial changes the committee should consider incorporating in whatever child support legislation it produces. These include:

- Requiring HHS to issue regulations for obtaining medical support for children when it is available at a reasonable cost through the absent parent's employer. We are pleased the Finance Committee added this provision to its reconciliation bill last year and hope it will receive similar favor this year.
- Deducting child support payments from income when determining the number of hours required for Community Work Experience Program (workfare) participation. It is blatantly unfair to consider child support a public benefit that must be "worked off".
- Allow the support rights of children in Title IV-E foster care to be assigned to the states where appropriate. This authority existed before enacement of Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, and should be reinstated.
- Permitting states to access the federal parent locator service before state and local information or location sources are exhausted--a change that will be especially helpful when the absent parent has already left the state.

That concludes my testimony, Mr. Chairman. I have appreciated the opportunity to express the perspective of the state human service administrators on legislative reform of child support enforcement. I will be glad to try and answer any questions you may have.

STATEMENT OF HON. THOMAS A. LOFTUS, SPEAKER, WISCONSIN HOUSE OF REPRESENTATIVES, REPRESENTING THE NATIONAL CONFERENCE OF STATE LEGISLATURES

Mr. LOFTUS. Thank you very much, Mr. Chairman.

Let me first keep my hat on as the speaker of the Wisconsin Assembly and then talk for the National Conference of State Legislatures later.

We would like a health dose of New Federalism. We would like to be unshackled from the requirement to go to the Health and Human Services Department to get waivers. We haven't been successful in that effort, and it wasn't because of a lack of ideas on our part for improving both medicaid and AFDC.

The bill before you, or at least the House-passed bill, has little in it that would be innovative in Wisconsin. We have put in place almost everything imagined in the bill and some of the things that weren't imagined.

We also have in place now and are phasing in mandatory wage assignment at the time of divorce, separation, or paternity—not after delinquency, but right away. Also coming into place is a system where we would have child support based on a percentage of the income of the absent parent—17 percent for one child, and this is of gross income, and so on. And those two things together are fundamentally important, because they insure collection of child support, they insure that it is adequate, and they insure that it is timely. Those three things together mean a lot, because what we are trying to do is get people off welfare, prevent them from ever going on welfare, and making sure that children in Wisconsin have a minimal level of support behind them. That's what we want to do; we want to break the dependency. We want to establish that parents, not government, are responsible for their children. And the percentage of income standard also says something else, because child support automatically goes up as income goes up, it automatically goes down as income goes down. That means that we say that a child has a right to an income that is somewhat similar to that the child would have enjoyed had the family remained intact, that that child throughout his life until adulthood is going to share in the largesse of that absent father. But, on the other hand, if that income of the absent father—in most cases—goes down, then the child support payment also goes down automatically.

One of the worst problems we faced in the recent recession, and we had an unemployment rate of almost 12 percent, was people losing their jobs, unable to pay the level of child support that was ordered. Yet, it is a court proceeding to go in and get that changed. They were incurring a debt, being unable to pay the debt, being in arrears, and then were going into some court proceeding at some later time and settling for a dime on the dollar, or what not. We don't want people to be in that situation; we want their support to go up when their income goes up and their support to go down when it goes down.

But support shouldn't go down below a minimum level, and what we are asking the Congress to give the State of Wisconsin is the ability to use some of the Federal money that is now used for

AFDC to conduct a pilot program where we would put a guarantee under each dependent child. And if child support from the absent father wasn't forthcoming and an imputed child support from the custodial parent was inadequate, they couldn't go below that minimum; that minimum would always be there.

This would do several things: One, it would prevent people from dropping into the system because their child support doesn't arrive or doesn't exist. It would give an incentive to work, because you can keep the money; you are not taxed 100 percent as you are in AFDC. Third, you can leave the stigma of welfare and still have some basic security in your life.

I guess all we are asking is that we be allowed to be a laboratory, that we be allowed to experiment, and that we be allowed to try this and see if there cannot be some day a new Federal policy to replace AFDC. And if you like that, we have an idea to replace medicaid, also.

In the National Conference of State Legislators, as you can guess, we support a later effective date. And as you know, the problem there is when the legislatures are in session. I think to suggest that most State legislatures could accomplish this before at least June of 1985 is not realistic.

We also support the 70-percent match and the increased waiver authority.

Thank you.

The CHAIRMAN. We appreciate your testimony very much. We will be discussing the project you mentioned with your staff—and whether or not we might be able to have a test of that plan. Wisconsin would be a good place to have it.

Mr. LOFTUS. Well, we are willing. I was very surprised to hear the Secretary say she was against the proposal. That came as a great disappointment. We are at the cutting edge of policy in this area, and we want to go beyond it. And we are guaranteeing no one will be worse off than they are now, and I think I can guarantee that there will be Federal money saved in the reduction of welfare costs.

The CHAIRMAN. Well, I know Senator Proxmire has been alerted, and we will alert Senator Kasten to be certain that he is aware of your suggestion. We will be meeting with them and their staffs as we work on this bill.

Thank you very much. I appreciate it.

[Mr. Loftus' prepared statement follows:]

STATEMENT BY

TOM LOFTUS

SPEAKER

WISCONSIN STATE ASSEMBLY

BEFORE THE

SENATE FINANCE COMMITTEE

ON

CHILD SUPPORT ENFORCEMENT

January 24, 1984

Mr. Chairman, my name is Tom Loftus. I am the Speaker of the Wisconsin State Assembly. I reside in Sun Prairie, Wisconsin. I am pleased to have the opportunity to appear before your Committee to discuss child support reform on behalf of the State of Wisconsin, in cooperation with the National Conference of State Legislatures.*

My purpose today is to describe our child support experience in Wisconsin and ask that as you revise child support laws at the national level, please provide states with the flexibility to continue to be laboratories for future reform.

As Vice-Chairman of the NSCL Human Resources Committee, the committee responsible for conference policy in the areas of health, income maintenance, social services and special populations, I would also like to share with you the activities of my colleagues across the nation in this important area. Finally, NCSL is very supportive of your efforts to improve the child support enforcement program and I will identify some key provisions in HR 4325 that NCSL would encourage you to include in your legislation.

Since first elected to the Wisconsin Legislature, I have worked at trying to reform welfare. I have come to realize that the term "welfare reform" when used in connection with the Aid to Families with Dependent Children (AFDC) program can only mean one thing: child support. Parents, not government, must be responsible for their children.

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*The National Conference of State Legislatures (NCSL) is the official representative of the country's 7,438 state lawmakers and their staffs. It is the only national legislative organization governed and funded by the states.

In fact, why is it called welfare? As we are all aware, it is actually child support.

After all, to be on AFDC one must have dependent children. No children, no dice. And you must lack income.

If you are a woman with children with adequate child support -- you are just a single woman with children.

If you do not have adequate child support, and you seek assistance, you are on "welfare."

The 1980 census reported that 12,163,600 children under 18 in the United States live with only one parent. The Census Bureau also estimates that only half of all children born this year will spend their entire childhood living with both natural parents. It also demonstrates that single-parent families are at a greater risk of living in poverty. Today, 21% of the nation's children, many of them in female-headed households, live in poverty. Last year, fatherless families represented 15% of the nation's 61.4 million families, but 46% of the 7.5 million households living in poverty.

Studies conducted in Wisconsin with the active interest and financial support of the Office of Child Support Enforcement (OCSE) establish that the financial irresponsibility of absent parents account for a large measure of these children's poverty and for substantial portions of public expenditures for financial assistance.

These analyses found that in Wisconsin no support whatever is paid in 70% of AFDC cases. Of the parents ordered to pay support, only 20% paid all they were ordered to in a year and one-third of that number missed at least one payment.

Child support is also a major source of tension between former spouses, and no wonder. Nearly every absent parent can point to someone who earns more than he or she does, but pays less; nearly every custodial parent knows someone who is receiving more from an absent father or mother who earns less.

Studies found that failure to meet support obligations pervades all income levels and that most absent parents do have the resources to contribute to the support of their children. The average income of the absent fathers of Wisconsin AFDC children in 1980 was approximately $11,000. An adequate system of collection and disbursement could reduce both the financial burden of custodial parents and public assistance and the debilitating effects of "welfare stigma" on women and children.

In Wisconsin, our child support system already incorporates in some form many of the features proposed as national policy. The state has a family court system with commissioners who increasingly use administrative guidelines to determine support amounts. All child support payments are paid to the clerk of courts, who records, tracts, and disburses them. The IV-D program works with the family court commissioners and local law enforcement in every Wisconsin county. The state requires income assignments in every support case, which are sent to the employer when there is a delinquency. It intercepts both state and federal tax returns. We began to implement medical support liability provisions in January of this year.

In the state fiscal year, which ended June 30, 1983, Wisconsin's IV-D program collected $38.2 million for AFDC recipients, which is 11% of AFDC regular program costs. It also collected $14.5 million for non-recipients.

Recently, the Wisconsin Legislature, at my request, enacted reform provisions intended to test several basic concepts to improve support collections. These concepts will be implemented in demonstration counties whose judges voluntarily cooperate. They include:

*All child support orders constitute an assignment of the obligor's income.

*Child support obligations will be paid through immediate, automatic payroll withholding, whenever possible.

*Child support obligations will be determined by using a "percentage of income standard" based upon absent parent gross income and the number of children.

*State authorities will be authorized to contract with out-of-state collection agencies and attorneys

> to recover delinquent payments from persons obligated to support resident children.

The state has begun the process of automating parts of the collection process and is building a child support data base which will provide the ability to record, track, and disburse payments. We expect this capacity to increase both the certainty of collection and the speed of response to delinquency. An automated capacity is essential to our proposal for large-scale wage withholding.

Setting child support at a predetermined rate and withholding it as a mandatory payroll deduction appeals to me basically because it shifts the public debate to the right issue.

What is the role of government in ensuring that parents are responsible for their children?

Some of us might phrase the question differently and ask how do we convince some people that they and not the government have the primary responsibility for their children?

I propose adding child support to the certainties of death and taxes.

Wisconsin proposes to withhold support owed from all absent parents without waiting for arrearages to develop. The new provisions will be implemented initially in up to 10 pilot counties and will be phased into the case load. They will be applied to all new cases and to all cases in which any new court action is taken. This statute does allow judges the discretion to withhold the assignment upon a showing of good cause to do so.

For the past few years, Wisconsin has been using guidelines to assist courts in determining support which are designed to take the factors described into account. We believe they have been a considerable improvement and have brought more equity to these determinations. Judges and family court commissioners assisted in developing them and have applauded the results. Nonetheless, we do not believe that they go far enough. The extensive research we have done provides convincing evidence that a percentage of income is a much simpler standard and is more equitable.

Parents will be expected to share their income with their children on the same basis that intact families do. Intact families share income in the course of daily living. They are supported every month and are cared for "off-the-top" not postponed until other obligations are met. Research conducted for our state by the University of Wisconsin-Institute for Research on Poverty has produced a "normative standard" for support payments:

17% of absent parent income for one child

25% of absent parent income for two children

29% of absent parent income for three children

31% of absent parent income for four children

34% of absent parent income for five or more children

The goal of Wisconsin's reform is to articulate in a law a clear societal expectation, applied uniformly to all divorces, separations, and paternity cases. Children are entitled to something approximating the standard of living which they would have enjoyed had the family remained intact.

These measures are the first phase of a long-range plan to reform totally the system which supports our children. After we have demonstrated the capacity to greatly increase collections and thus to reduce public costs, we intend to pursue the following:

> *Creation of a uniform child support payment system for all children with a living absent parent in which the payment equals what the absent parent paid or a minimum payment, whichever is higher.

Under the proposal, all children with living absent parents would be entitled to the child support paid by their absent parent with a minimum guaranteed benefit of $3,500 for one child, $5,000 for two children, $6,000 for three or more children. In cases where the absent parent pays less than the minimum, the custodial parent would be subject to a special surcharge (e.g., at a rate equal to one-half the rate the absent parent pays) up to the amount not paid by the absent parent. In cases where the sum of the absent parent payment and the custodial parent surcharge was less than the minimum benefit, the difference or supplement would be financed out of moneys that would otherwise have been spent on AFDC. All children of absent parents will receive support payments whose source is indistinguishable.

Wisconsin cannot proceed with the next part of our experiment without two preconditions: First, we must demonstrate through the effectiveness of our collections that the proposed subsidy will be cost-effective.

Second, we will need federal cooperation in terms of the use of federal funds which would have been paid to AFDC recipients to assist us in providing the child support payments which parental resources are inadequate. No regulations governing use of AFDC funding for purposes of piloting a child support alternative exist. Similarly, there is no authority for waiver of child support program requirements.

Under federal law, to be eligible for federal funding, the state must only use AFDC for those children with "need," i.e., families without significant income or assets. Further, the state must retain any child support payments that do not exceed the benefit payment as a reimbursement of the state and federal governments for thier "share" of the cost of the benefit. In other words, we may only pay families public assistance if they can prove they are sufficiently poor and we must "recover" as much of the assistance as we can from the absent parent. We may not use public funding to help the family avoid public assistance. Any excess support payments to families are necessarily delayed for long periods because monthly collections must be compared to AFDC benefits paid out in the month of the support collection. Furthermore when a family ceases receiving or has never received AFDC, they must file a written application with a county child support agency for collection of child support.

In a system that routinely collects periodic child support for all eligible children at an equitable rate of payment, the distribution process and the requirement for written applications for enforcement services for non-AFDC cases imposed by federal law is at best administratively ineffectual and inefficient. Waiver of these cumbersome federal requirements is necessary for Wisconsin to effectively demonstrate, in one, two or three counties, the advantages of a system that will divert families from AFDC by endorcing child support uniformly for all families with absent parents, paying all child support collections to families, and providing a public subsidy to families who receive insufficient child support.

Thanks to the cooperation of the Wisconsin delegation of the U.S. House of Representatives, the members of the House Ways and Means Committee and the members of the U. S. House of Representatives, language was incorporated in HR 4325 which gives Wisconsin the flexibility needed to proceed with our initiative. We are pleased with the language in the bill, and ask that you support its inclusion in the final product of your committee.

The phased implementation of Wisconsin's reforms and the careful evaluation of each stage will enable the state to control the program costs and is expected ultimately to substantially reduce both state and federal program costs.

Although Wisconsin has developed a specific proposal which we are anxious to test, I would not suggest that the Wisconsin model is appropriate in every state. Many states are working equally hard to suggest other improvements in the child support and AFDC programs. We cannot afford to cavalierly disregard these suggestions. We need to carefully consider and test them. As you consider federal reform in this area, please do not limit the states' ability to experiment nor be overly prescriptive in your reform measures. Each state is a textbook being written. Each state is a laboratory. Let the states experiment.

Many of our current national policies have had their genesis in the states. Wisconsin was at the forefront in unemployment and worker's compensation, as well as the income tax. State legislators are very concerned about the number of children that have not been receiving the support they need and deserve. I call your attention to the "1983 State Legislative Report on Child Support Enforcement," prepared by the staff of the National Conference of State Legislatures. State legislatures have been aggressively seeking change in their state laws to address this problem. We ask you to provide us with the financial and administrative flexibility necessary for us to do our jobs. Specifically, NCSL urges you to provide for the following in your child support enforcement bill:

(1) an October 1, 1985 effective date, providing legislatures time to fully utilize the legislative process, including hearings and other forms of public participation;

(2) a waiver provision, authorizing the Secretary to waive requirements mandated in the legislation when a state can demonstrate that the requirement would not increase the effectiveness or efficiency of its child support enforcement program;

(3) a special grant program to encourage interstate enforcement;

(4) Section 1115 waiver authority for the child support enforcement program, including necessary protections for recipients;

(5) an incentive payment program, with a holdharmless and transition provision.

Finally, NCSL would urge you to consider revisions to the following provisions of HR 4325: (1) reporting requirements; and (2) state commissions. While NCSL recognizes the need for improved data on child support issues, the reporting requirements in HR 4325 seem unnecessarily burdensome. NCSL would urge you to consider a more streamlined reporting requirement section. Also, assuming the state legislature will conduct hearings on child support issues as part of their consideration of program revisions, NCSL questions the need to require the appointment of state commissions. NCSL would urge you to give the state, either the governor or the legislature, the option of covening such a commission.

I thank you for this opportunity and look forward to working with you on this and other important issues that will be before you in the coming months.

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1983 STATE LEGISLATIVE REPORT ON CHILD SUPPORT ENFORCEMENT

INTRODUCTION

Increased attention to children and their needs leads to the conclusion that 1983 was the year of the child as evidenced by the following.

--President Reagan proclaimed August 1983 as Child Support Enforcement month.

--The U. S. House of Representatives, Select Committee on Children, Youth and Families was reauthorized in the 98th Congress.

--Title V of The Economic Equity Act introduced in Congress provides the right of child support to every child.

--H.R. 4325, which amends part D of Title IV of the Social Security Act, assures all children secure financial support from their parents through mandatory provisions for income withholding. This amendment also requires these provisions: state income tax intercept, liens on real and personal property, and incentive payments to the states. H.R. 4325 passed on suspension out of the House.

--Several state legislatures have established committees to focus on the needs of children and youth.

--And an unparalleled amount of state child support and paternity legislation became law.

The following summary describes the significant child support and paternity bills enacted or amended in the 1983 sessions. Further information and copies of legislation are available upon request.

INCOME (WAGE) WITHHOLDING AND ASSIGNMENT ORDERS

Income withholding or assignment is the act of deducting specified amounts of money from the earnings of a parent to pay support obligations to the family owed support.

Historically, income withholding and assignment orders have been one of the most effective mechanisms in collecting current and past due court-ordered child support. Forty-seven states currently have one of the four types of income withholding law. These four basic types of orders are: (1) Automatic, which is filed with each child support order and takes effect upon default after the court has notified the delinquent parent;
(2) Mandatory, allowing the court no discretion under specified conditions;
(3) Discretionary, allowing the court to order withholding and assignment;
(4) Voluntary, an option in addition to compulsory laws.

In 1983, four states passed new withholding laws and ten states amended existing laws. To date, there are only three states without some form of withholding law on their books.

Illinois enacted a new automatic income withholding statute. After January 1, 1984, upon entry of a support order, a separate order for withholding shall be entered which will take effect upon delinquency of an amount equal to at least one month's support obligation. The obligor will not be released from the withholding order until the arrearage is paid in full.

Maine enacted a discretionary wage withholding law effective through court orders or in accordance with an administrative procedure.

Massachusetts enacted a mandatory income assignment to be filed with each child support order. This assignment shall take effect when the obligor fails to meet two successive required payments of support, or, if the court finds that the obligor is likely to default on the support order, the court may order such an assignment to be effective immediately.

Under Michigan's support and visitation enforcement act, an automatic income withholding is established giving the Friend of the Court power to enforce the income withholding upon petition. The only defense is extraordinary circumstances which created the arrearage. The income withheld shall be paid directly to the office of the Friend of the Court within three days after the date of the withholding. Under the statute, the obligor may be committed to jail with the privilege of leaving the jail to work, if the obligor is held in contempt of court--due to non-payment of support.

In addition to a strong automatic income withholding law, North Dakota enacted a voluntary wage assignment law for current or future wages.

Texas enacted both a voluntary and discretionary income withholding law. The court may order a discretionary withholding on the motion of any party after notice to all parties. The assignment becomes effective 15 days after service of the notice upon the employer who may not discharge or discipline the employee for the withholding. Legislators sponsoring this legislation consider it an important breakthrough in Texas child support enforcement because the Texas constitution prohibits wage garnishment. An amendment to the anti-wage garnishment provision in the Texas constitution passed referendum on a 4 to 1 margin.

West Virginia enacted a wage withholding to be ordered at the discretion of the Department of Welfare, and paid to the Department, in cases where the rights to such support have already been assigned to the Department of Welfare. West Virginia's law is directed at the employer of the obligor, not the obligor.

In addition to these newly enacted statutes, several states strengthened or clarified existing income withholding laws.

Arizona amended its discretionary law from a six month arrearage to a one month arrearage in child support or spousal support. The language of the Arizona law was amended from "periodic earnings" to "without regard to source" of income.

This assignment also takes priority over all other attachments, executions, garnishments or assignments. The final amendment designates who may petition the Clerk of Court to issue the order for assignment to "person or agency entitled to receive... support."

Arkansas amended its act to provide that all state agencies and boards, commissions, institutions and political subdivisions honor wage assignments made for the purpose of enforcing child support orders or judgments.

Colorado's continuing garnishment statute was amended to mandate that judges order a withholding assignment within thirty days of a motion. The motion must provide that the payment is greater than thirty days in arrears.

Connecticut's statute was changed from mandatory income withholding to an automatic income withholding if the dependents are receiving assistance from the state, or if the support order is payable to the Family Division of the Superior Court.

Delaware's wage attachment law was amended to provide that the court may stay the wage attachment upon future compliance with the order, although the stay will be lifted if the obligor defaults in payment for seven working days.

Wisconsin's amendment provides that the order or judgment automatically creates an assignment of any money available to the payor and is not limited to income or benefits. In addition, the delinquency period is reduced from 20 days to 10 days. Other amendments provide for automatic assignment upon entry of the order, although this is limited to specific counties and will not be statewide until July, 1987.

Wyoming amended its discretionary income withholding law to provide that the income withholding is appropriate--(1) upon the court's own motion; (2) the request of the custodial parent, or (3) the state if support rights of child have been assigned to state.

DEBT SET-OFF

The tax refund intercept has been an effective tool for collecting large amounts of past-due child support. Tax intercept laws were first enacted in Oregon and North Carolina during the 1970's. In 1982, $31 million was collected in 21 states from state tax intercepts. To date 27 states have enacted the tax refund intercept laws.

In 1983, seven more states passed income tax refund intercepts to affect child support debts. The states are Arkansas, Colorado, Delaware, Louisiana, Oklahoma, South Carolina, and West Virginia.

Iowa amended their statute to include "foster care unit or department of investigations."

PATERNITY

The issue of paternity is vital to a child. Until paternity is established, a child support award cannot be ordered. Beyond the economics of the situation, a non-marital child benefits from the knowledge of paternity for medical and psychological reasons.

STATUTES OF LIMITATIONS

Brief statutes of limitations on bringing paternity actions have come under fire in the last few years. The Supreme Court (Mills vs Habluetzel, 1982) held that a one year statute of limitations is unconstitutional. In 1983, a Tennessee case was referred to the Supreme Court and a two year statute of limitations was similarly struck down (Pickett v. Brown, No. 82-5576, 9 FLR 3041).

In 1983, several states made changes in their paternity statute of limitation laws. Hawaii established a statute of limitations of three years after the child reaches majority except in cases of adoptions, in which case it is not later than three years after birth. Florida established a statute of limitations of 20 years (2nd year after maturity). Minnesota statute of limitiations was clarified to 3 years from birth or if the child is receiving public assistance, 3 years after the date the child began to receive public assistance. Ohio's statute of limitations under their uniform parentage act is 5 years after the age of maturity. South Dakota amended their statute from 2 years to 6 years after birth. Texas amended their statute from 4 years to 20 years (actual language is second anniversary after child becomes an adult). Washington removed any time limitations under their Uniform Parentage Act. West Virginia established a 10 year statute of limitations.

PARENTAGE TESTING

In recent years, parentage testing has become so accurate that it can be used as evidence in cases establishing paternity. Parentage testing is used in conjunction with other forms of evidence to prove or disprove paternity. There are several genetic marker tests which can effectively aid in determination of paternity. The HLA, or human leukocyte antigen (white blood cell) testing can be accurate up to 99%. However, a combination of several red blood cell tests (RBC antigen, electophoreis) can also yield results accurate enough to be admitted as evidence in a paternity trial. Several states either enacted new laws during the 1983 session or amended existing genetic testing laws.

Arkansas enacted a law requiring a blood test or any other scientific examinations to determine whether or not the "defendent" can be eliminated as the father, or to establish probability of paternity both of which may be received in evidence.

Ohio allows genetic tests "including but not limited to blood group antigens, RBC antigens, HLA, serum enzymes and serum proteins" as evidence both to exclude alleged fathers and to include statistical probability of an alleged father's paternity.

Tennessee passed legislation for evidentiary use of tests including any statistical likelihood of paternity. Tennessee's amendment provides that the test results constitute conclusive evidence if results and findings exclude a possible father from parentage.

West Virginia enacted a new genetic testing law that provides court-ordered blood tests on the motion of any party. These tests shall be used as evidence in cases of proving non-paternity and in cases determining probability of paternity (if the statistics are 75 percent positive or higher).

Colorado's blood testing statute updates prior laws to include current methods of testing such as tissue typing and state of the art blood testing. The most significant amendment provides for presumption of parentage if the tests indicate a 97 percent (or higher) probability of parentage.

In cases where the alleged father is dead, Minnesota amendments provide for testing the siblings or parents of a deceased alleged father unless the tests would pose a health problem to the family members. The results of these tests may also provide evidence of parentage but may be used only to provide the right of the child to public assistance, including but not limited to Social Security and veteran's benefits.

New York's amendment allows the evidentiary use of HLA testing except in cases where non-paternity has already been established through other tests.

North Dakota amendments require verified documentation of chain of custody before allowing introduction of test results.

UNIFORM PARENTAGE ACT

The Uniform Parentage Act (UPA) was promulgated in 1973 to provide non-marital children the same rights that marital children have always known. Although the Uniform Parentage Act has failed to gain widespread acceptance, active study of the act continues in the states. In 1983,several states adopted either the Uniform Parentage Act or their own version of the act.

Delaware adopted the Uniform Parentage Act as a whole.

Illinois enacted the "Illinois Parentage Act." This act refers only to artificial insemination, clarifying legal parentage to couples consenting to artificial insemination.

Although the actual language in the "New Jersey Parentage Act" differs slightly from the Uniform Parentage Act, the intent is the same.

Ohio adopted a modified version of the Uniform Parentage Act.

Washington amended their Uniform Parentage Act.

CHILD SUPPORT STANDARDS AND GUIDELINES

In an attempt to equalize child support awards within the states, child support standards or guidelines to establish support awards have been enacted in many of the states.

Several states amended their support guidelines statutes in 1983; others enacted legislation to provide for modification of orders.

Nevada enacted legislation establishing guidelines for support awards. In determining the amounts of awards, several factors are to be included for consideration, such as the needs of the child and financial means and circumstances of parents.

California amended existing law.

Minnesota created guidelines and provided for deviation only if the court makes express findings of fact as to the reason for a lower order.

Montana amended its guidelines statutes to provide clarity in the language.

West Virginia amended its Intra-State Support Act to provide specific guidelines for setting support awards taking into consideration the needs of the child and the needs and resources of the parents.

Wisconsin enacted a statute that creates an innovative alternative method of determining child support obligations. This alternative does not replace department guidelines but allows the court to elect to use a percentage of the obligor's income. The percentages to be used are still under consideration and have not yet been established. The idea of using a percentage system (as opposed to a set amount) will allow for modifications in the awarded support without further court action if the income should rise or fall.

The following states enacted legislation (or amended existing legislation) to provide for modifications to orders: Indiana, Kansas, Minnesota, Oregon, Washington, and West Virginia

New York enacted legislation to provide for cost of living increases.

SPECIAL COURT PROCEDURES FOR CHILD SUPPORT

To ensure effective and prompt collection of child support payments without creating court backlogs or using expensive court time, several states have initiated an arm of the court to deal specifically with child support cases.

In their 1983 legislative session, Michigan repealed their entire Friend of the Court package and replaced it with new legislation. The Friend of the Court was created in 1919 to protect the interest of children in the areas of custody, support, and visitation. They make recommendations to the court on custody and support, collect child support payments, and enforce support and visitation.

The new Friend of the Court Act provides for domestic relation mediation; automatic support enforcement upon a predetermined arrearage; procedural uniformity among Friend of the Court offices; and increased accountability to clients.

Arkansas enacted a new law to provide referees in cases that deal with non-marital children. The decision of the referee shall be binding upon the court judge and shall have the same effect as a decision of a county judge.

ENHANCING THE JUDICIAL PROCESS

The majority of child support orders are entered and processed by the courts. One of the major problems within the court system are the backlogs that arise, and often these backlogs increase the time before an obligee can start receiving payment. Several states eliminate this problem by providing for temporary support pending trial.

Two more states enacted legislation this year to provide temporary support pending trial.

Minnesota provides that the court may order temporary support pending final determination of paternity when blood tests are over 92 percent positive; the support is to be paid into an escrow account of the court. If it is an AFDC case, the money from the escrow account is used to offset the AFDC debt. If it is a non-AFDC case, the use of the money is at the discretion of the judge, but often it is used to pay hospital expenses.

Often, states also require an obligor to make a security or bond payment, which is lost if support payments are not made. In 1983 the following states added these provisions: Arkansas, Connecticut, Michigan, Tennessee, West Virginia.

Tennessee expanded the jurisdiction of their juvenile courts to allow them to order support for minor children.

West Virginia also expanded the jurisdiction of their magistrate courts to include entering and enforcing support orders

ENHANCING STATE PROGRAMS

The cornerstone of a strong child support program is the enabling legislation which establishes the IV-D agency and empowers it with the strength to enforce support awards. In 1983, several states enacted enabling legislation.

A centralized system for payments allowing current information on arrearages provides a valuable timesaving and moneysaving device to both the parents and the state. Keeping an objective monitor on payments and missed payments eliminates disputes, and unnecessary court time. This system is often referred to as a "central registry" or "clearinghouse".

In 1983, North Carolina passed a bill mandating that clerks keep records and send delinquency notices when support is ordered to be paid through the court.

An essential element to effective child support enforcement is an adequate legal staff. If the state program cannot provide adequate legal staff, legislation to provide for contracts with private attorneys can fulfill this need. Several states enacted legislation in 1983 to provide for contracting with private attorneys.

Iowa provides for contracting with county attorneys, attorneys general, clerks of district courts, or others to collect child support obligations.

Mississippi, Nebraska, and Wisconsin laws provide for the same type of contract services.

Another type of enabling legislation that saves time for the parents and the state, and therefore, helps eliminate backlog problems is assignment of rights by law. In order to receive Aid to Families with Dependent Children (AFDC), the applicant must sign over the rights to support to the state. By having an automatic assignment by operation of the law, time and paperwork is saved. In 1983, five states enacted this type of legislation: They are Arkansas, Minnesota, Mississippi, Oregon, and Utah.

In addition, several states amended their laws to establish specific powers within child support the department or agency. Mississippi enacted legislation this year to establish a single unit to develop and implement a nonsupport and paternity program and institute proceedings in the name of the state Department of Welfare.

Hawaii's amendment allows the department to appear in any proceeding before any court or administrative agency for the purposes of establishing paternity or obtaining, enforcing or modifying an order of support on behalf of any dependent or any person for whom the department has the obligation to obtain or enforce support. Hawaii also amended their law to provide that payment of public assistance constitutes a debt to the state by the parents.

UNEMPLOYMENT INTERCEPT

Section 454 of the 1981 Omnibus Budget Reconciliation Act was amended in 1982 to mandate that child support obligations be deducted from unemployment compensation benefits. The money withheld is forwarded to the child support agency to be used as payment of the debt. This federal act follows the adoption of similar legislation by Minnesota and Illinois

In the 1982 legislative sessions, 24 states enacted unemployment compensation benefits intercept legislation as mandated by federal law. These states are Alaska, Connecticut, Florida, Georgia, Idaho, Indiana, Iowa, Kentucky, Maine, Maryland, Mississippi, Nebraska, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, and Wyoming.

In 1983, the following four states enacted unemployment compensation benefits intercept legislation: Nevada, New York, Ohio, and Wyoming.

STATE HIGHLIGHTS

Several states have enacted legislation that will fundamentally change the child support program in their state. These states have gone beyond individual pieces of legislation and submitted packages of legislation.

Arkansas

Several legislators in Arkansas have indicated a need for state constitutional revisions as it refers to non-marital children. Beyond the enactment of wage assignment, state tax intercept, genetic testing, and enabling legislation, Arkansas passed several other laws this year. One act makes the offense of nonsupport uniform to marital and nonmarital children. Another law increased the age of the child from 16 years to 18 years during which time the parents are still responsible for support. The child support unit of the Division of Social Services will now have the power to impose afee on the obligor in cases of collections made for children not receiving assistance from the state.

Michigan

The Michigan legislature repealed their original Friend of the Court Act and enacted a Friend of the Court Reform package. The Friend of the Court is the arm of the court created specifically to deal with child support enforcement, custody, and visitation issues. In addition to this new law, a series of bills were enacted to be utilized with the new Friend of the Court package. Automatic income assignment, an amendment to the Paternity Act that references the "Support and Visitation Act" and an act that provides for financing the Friend of the Court were also passed this year.

Minnesota

Members of the Minnesota Family Support and Recovery Council Legislative Committee, several county attorneys, and their staffs, and the office of child support spent a great deal of time and effort this year providing input to the legislature to develop strong remedies to enforce child support. The passage of Senate Bill 545 includes the following substantive changes: enabling legislation has been changed to include automatic assignment of support rights upon receipt of public assistance. It gives the public agency the right to judgment for support arrearages and the right to enforce any judgment entered before the assignment of rights. They amended their paternity law to provide exception to the 3 year statute of limitations in cases of AFDC to allow for pursuit of parentage until 3 years after AFDC was first granted. Also allows parentage action to be joined with action for dissolution, annulment, legal separation, custody, or reciprocal enforcement of support. Other acts clarify and strengthen income withholding orders. Modifications or cost of living changes are allowed for legislatively. The legislature has also mandated any order for support in a reciprocal enforcement of support action to include a provision for income withholding.

Tennessee

Tennessee's package of legislation includes an act which provides for bond or security in cases of support arrearages. One amendment expands juvenile court jurisdiction to allow the juvenile courts to order child support in cases involving minor children. Another amendment allows for the ordering of parentage testing on the motion of any party to be used as evidence both in determination of probable paternity and the exclusion of alleged fathers.

Texas

The highlight of the Texas package is the voluntary wage assignment. Historically, Texas constitutionally barred wage garnishment. Another important change in Texas law is the new 20-year statute of limitations in parentage actions, providing for action until two years after the age of majority. An act was passed to create a domestic relations office to establish and enforce court orders in areas of child support, paternity and visitation in counties having a population larger than 2 million.

West Virginia

The West Virginia child support package changed several laws. It provided a state tax intercept and a wage assignment at the discretion of the Department of Welfare. The paternity laws were amended to strengthen parentage testing, and to expand the statute of limitations in parentage actions to 10 years.

FOR MORE INFORMATION, please contact Joan Smith, Child Support Enforcement Project, National Conference of State Legislatures, 1125 - 17th Street, Suite 1500, Denver, Colorado, 80202, (303) 292-6600.

Legislative reports on child support enforcement are also available for 1981 and 1982.

The NCSL Child Support Enforcement Project provides 1) an Information Clearinghouse for statutes, research reports, statistical information and significant court discussions; 2) topical information releases; and 3) technical assistance for state legislators and their staff in policy research, testimony preparation, bill drafting, and state workshops in developing and implementing child support legislation.

The **Chairman**. Our next witness is from the General Accounting Office. We are always happy to have them. Maybe they can save us a few million before we adjourn.

I would like to place in the record a letter from Senator Domenici. Regarding this GAO study which was requested by the Senate Budget Committee.

Let's see, who do we have today? Mr. Anthony Delfico, Mr. Robert Gerkin, Mr. Anthony Lofaro.

You are used to testifying, so if you can summarize for us and hit the highlights, I think we may have some questions we would like to ask.

[The letter from Senator Domenici and one from the GAO follow:]

PETE V. DOMENICI, N. MEX., CHAIRMAN
WILLIAM L. ARMSTRONG, COLO.
NANCY LANDON KASSEBAUM, KANS.
RUDY BOSCHWITZ, MINN.
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STEPHEN BELL, STAFF DIRECTOR
RICHARD N. BRANDON, MINORITY STAFF DIRECTOR

United States Senate
COMMITTEE ON THE BUDGET
WASHINGTON, D.C. 20510

January 24, 1984

The Honorable Robert Dole
Chairman
Committee on Finance
United States Senate
Washington, D.C. 20510

The Honorable Russell B. Long
Ranking Member
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Senators Dole and Long:

A major challenge facing the Congress is to devise appropriate policies concerning child support. I know we share a concern that, without an effective child support enforcement (CSE) program, absent parents may neglect their responsibilities to care for their children. Although the taxpayer tries to pick up the burden through such worthy programs as AFDC, medicaid and food stamps, the neglected children of this country suffer economically, emotionally, and socially. These children must be helped.

The Finance Committee has taken the lead in child support enforcement since enactment of the program in 1975. The Committee now is considering several bills to improve the effectiveness of the CSE program. I am a co-sponsor of one of those bills, S. 1691, along with many members of your committee.

I want to share with you the preliminary findings of a study conducted by the General Accounting Office at the request of the Senate Budget Committee. The findings may help you to evaluate the strengths and weaknesses of the current CSE program as you consider possible legislative changes.

What strikes me most about the findings is the following:

- The state and local CSE agencies acted in just 45 percent of the sample instances in which they could have taken an enforcement action.
- When the state and local CSE agencies did act in a sample case, more than 90 days on average had elapsed since the support payment was due.
- Absent parents whose children receive AFDC pay less than one-third of the support owed to their children.
- Missed and delayed enforcement opportunities deprive needy children in AFDC families of over $1 billion dollars per year in support.

This is only the tip of the iceberg. GAO examined only the "easy" cases, those in which paternity already was established, and a court order for support already was in effect.

The CSE program is an important tool for the government to use to improve the well-being of the nation's children. The program already has helped thousands of children and saved the taxpayer millions of dollars in welfare costs. I hope that the Finance Committee will take prompt action this year to strengthen this critical program.

Sincerely,

Pete V. Domenici
Chairman

PVD/mcw

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

HUMAN RESOURCES
DIVISION

January 24, 1984

HR3-43

The Honorable Pete V. Domenici
Chairman, Committee on the Budget
United States Senate

Dear Mr. Chairman:

At the request of the Senate Budget Committee, we are evaluating federal, state, and local efforts to collect child support authorized under title IV-D of the Social Security Act. Recently, members of my staff briefed committee staff on the preliminary results of our on-going evaluation. The following summarizes the results of the briefing.

PROGRAM ACCOMPLISHMENTS

The Child Support Enforcement Program collects child support from absent parents for families receiving public assistance from the Aid to Families with Dependent Children (AFDC) program and families not receiving AFDC. Support collected for AFDC families is turned back to the AFDC program.

The Child Support Enforcement program can point to significant accomplishments since its beginning in fiscal year 1976. By the end of fiscal year 1982 total collections had tripled to almost $1.8 billion, 2.1 million support orders were established and paternity determined for more than 800,000 children. In addition, the program helped to locate more than 3 million absent parents over five years ending in fiscal year 1982.

Despite these accomplishments, unpaid child support for AFDC children totals about one billion dollars annually. Also, there are concerns that families not receiving AFDC do not receive child support services on an equal basis.

GAO's WORK

We have reviewed collection efforts at five State Child Support offices (California, Florida, Maryland, Michigan and New York) and six local offices (Sacramento County, CA; Jacksonville, FL; Montgomery County, MD; Oakland and Wayne Counties, MI; and Schenectady County, NY). At each local agency, we reviewed how the agency managed selected child support cases for a 1 year period beginning around January 1982. To date we have completed preliminary analysis of 222 cases (127 AFDC and 95 non-AFDC) cases at 5 locations where the agency first became responsible for collecting support.

PRELIMINARY OBSERVATIONS

Absent parents do not frequently pay their child support

We examined the paying habits of the 222 absent parents. Besides determining the total amount of support due compared to the amount paid for the study year, we identified when payments were late by more than 10 days indicating the need to initiate collection action. Absent parents paid 50 percent of the support that was due for the study year. Absent parents associated with non-AFDC sample cases showed better payment performance than absent parents whose children received AFDC.

	Type of case		
	AFDC	Non-AFDC	Combined
Percent of child support due that was paid	31.1	64.0	49.8
Percent paying all support due	6.3	17.9	11.3
Percent making no payments	29.9	20.0	25.7

About 88 percent of the sample absent parents were delinquent by more than 10 days at least once during the study year. This included 121 (95 percent) of the AFDC cases and 74 (78 percent) of the non-AFDC cases. The average period of nonpayment was 3 months. Three-fourths of those who resumed paying experienced at least one more delinquency period.

The delinquency usually occurred when the very first payment to the child support agency was due. Eighty-one (64 percent) of the first payments due for AFDC cases were late. Fifty-seven (60 percent) of the non-AFDC absent parents were late in making their first payment.

There are few collection standards for the enforcement of child support orders

Though the Child Support Program is a federal, state and local partnership, the local jurisdictions are the principle program managers. The federal and state governments have chosen to allow the local agencies wide latitude in determining how and when support orders will be enforced and monies are to be collected from the absent parent.

Although the Federal Office of Child Support Enforcement (OCSE) has encouraged agencies to develop standards to measure their work products, services, or tasks, the only enforcement related operating standard required by Federal regulations is that delinquencies be identified within 30 days and payors contacted "as soon as possible." However, there is no time limit to follow up an identified delinquency. Also, the local agencies exercise discretion in selecting methods of contacting obligors and determining appropriate enforcement actions.

Action to collect past due child support was for the most part non-existent

Discussions with responsible collection officials indicate that timely follow-up on past due child support payments is essential to (1) curb the development of poor payment habits among first-time delinquents, (2) promote the public perception that program enforcement is persistent and effective, and (3) optimize collections. For the purposes of our analysis, we measured how quickly if at all an agency initiated enforcement action once payments were more than 10 days late.

AFDC cases

Of the 127 AFDC cases reviewed, 121 involved 309 instances where support payments were late by more than 10 days. During the 1-year study period we found that the local agencies did not take any action nearly 60 percent of the time. When the agencies took action, an average 91 days had passed since the last payment was received from the absent parent.

We examined how the agencies reacted when for the first time the 121 absent parents were overdue by more than 10 days in making their payments. Local agencies took no action in 51 cases (42 percent). In the other 70 cases, the agency usually did not act until more than 30 days passed, and in about half of these cases, no action was taken until more than 60 days passed.

Non-AFDC

Policies on services to non-AFDC clients vary among States. Some States require all child support matters to be managed by the child support agency. Other States will assist only clients who know of and apply for services. One State we visited sets a quota on the number of non-AFDC clients that can be served. Individuals needing services are placed on a waiting list if the local agency is already serving its quota of non-AFDC clients. Another State we visited has allowed counties to limit services by imposing a "means test."

The local agencies were no quicker to act on non-AFDC child support that became past due. There were 194 delinquency periods (payments overdue longer than 10 days) involving 73 cases. The agencies took no action in 126 (64 percent) of the instances. When they did act, an average of 93 days had lapsed since the last payment was received from the absent parent.

Enforcement techniques used were limited

The six local child support offices generally employed few enforcement techniques. Local agencies were more likely to use enforcement techniques involving the court system rather than an administrative measure such as a letter or telephone call. Court actions are more expensive, slower, and not always effective, and court expenses are normally defrayed from state and local budgets rather than reimbursed as a Federal child support enforcement program expense.

Two counties visited preferred a court order--requiring delinquent parents to "show cause" why they should not be found in contempt of court--as a main collection technique because they had deputy sheriffs on staff to arrest those who did not comply with the order. Officials from these two counties stated the show cause order was an effective technique because they had the resources to carry out an arrest threat. Another local office used letters or telephone calls as principle techniques. The agency director said the show cause order was not an effective technique because there was no staff assigned who had arrest authority.

The withholding of support payments from wages, known as "wage assignment," was described by child support officials we spoke to and in some literature as being the most effective collection technique for cases involving employed absent parents. Of the 127 AFDC cases reviewed, wage assignments were used in 30. Overall, 64 percent of support due was collected. This compares to the average of 50 percent of the support collected from the entire sample group.

Poor control over case files and records

Only one of the locations we visited performed case inventories on a regular basis or reconciled hard copy file information to the automated system. In the one location that is reconciling hard copy files to the automated system, the reconcilation has disclosed instances where:

--support orders were not always billed, and

--arrearage balances were understated.

At the other locations, agency officials could only provide estimates of their total case inventories or expressed reservations about the accuracy of the case counts or the completeness of information in their automated systems. In one of these locations, for example, an OCSE Regional Office review found that approximately 15 percent of the case files could not be located for various reasons. The review also disclosed that necessary information is not always entered on the automated system and if entered, it is not always timely, current, complete or accurate.

We plan to issue our report later in the year. Our report will include analysis of about 325 cases at seven locations where the local agency became responsible for collecting support around January 1982. Also, we will discuss collection activities on 145 cases at five locations where the local agencies had collection responsibility prior to January 1982 and where past due child support had accrued.

Sincerely yours,

Richard L Fogel

Richard L. Fogel
Director

STATEMENT OF JOSEPH F. DELFICO, ASSOCIATE DIRECTOR, HUMAN RESOURCES DIVISION, U.S. GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY ROBERT F. GERKIN, ASSIGNMENT MANAGER, AND ANTHONY P. LOFARO, EVALUATOR IN CHARGE

Mr. DELFICO. Thank you, Mr. Chairman.

Accompanying me today, as you have mentioned, is Mr. Robert Gerkin from our Human Resources Division, and Mr. Anthony Lofaro from our New York Regional Office.

We are performing this evaluation at the request of the Senate Budget Committee and Representative Mario Biaggi.

We reviewed collection efforts at five State child support offices (California, Florida, Maryland, Michigan and New York) and six local offices (Sacramento, California; Jacksonville, Florida; Montgomery County, Maryland; Oakland and Wayne Counties in Michigan; and Schenectady County in New York). At each local agency we reviewed how the agency managed selected child support cases for a 1-year period beginning around January 1982. To date we have completed preliminary analysis of 222 cases at five locations where the agencies first became responsible for collecting support. We focused our study on the collections aspect. We did not look at establishing paternity or establishing support orders.

We found, and I would like to share with you now, briefly, a number of items here.

First, as we all know, absent parents do not frequently pay their child support. We examined the paying habits of 222 absent parents. Besides determining the amount of the support due compared to the amount paid for the study year, we also focused on cases where payments were late by more than 10 days—a past-due period used by various collection officials to trigger the need for initiating collection action. Absent parents paid 50 percent of the support that was due for the study year. Absent parents associated with non-AFDC sample cases showed some better payment records than parents whose children were receiving AFDC.

About 88 percent of the absent parents were delinquent by more than 10 days at least once during the study year. This included 95 percent of the AFDC cases and 78 percent of the non-AFDC cases. The average period of nonpayment was 3 months. Three-fourths of those who resumed paying experienced at least one more delinquency period.

The delinquency usually occurred when the first payment to the child support agency was due. Sixty-four percent of the first payments due for AFDC cases were late. Sixty percent of the non-AFDC absent parents were late in making their first payment.

Now, we found that there are few collection standards for the enforcement of child support orders. Though the child support program is a Federal, State, and local partnership, the local jurisdictions are the principal program managers. The Federal and State governments have chosen to allow the local agencies wide latitude in determining how and when support orders will be enforced and how and when moneys will be collected from the absent parent.

Although the Federal Office of Child Support Enforcement has encouraged agencies to develop standards to measure their work products, services, and tasks, the only enforcement-related operating standard required by Federal regulations is that delinquencies be identified within 30 days and payors contacted as soon as possible.

However, there is no time limit to follow up on an identified delinquency. Also, the local agencies exercise discretion in selecting methods of contacting absent parents and determining appropriate enforcement actions.

We found that action to collect past-due child support was for the most part nonexistent. Discussions with collection officials indicated that timely followup on past-due child support payments is essential to curb the development of poor payment habits among first-time delinquents, to promote the public perception that program enforcement is persistent and effective, and to optimize collections. For the purposes of our analysis, we measured how quickly, if at all, an agency initiated enforcement action once payments were more than 10 days late.

Of the 127 AFDC cases reviewed, 121 involved 309 instances where support payments were late by more than 10 days. During the 1-year study period we found that the local agencies did not take action in nearly 60 percent of the time. When the agencies took action, an average 91 days had passed since the last payment was received from the absent parent.

We examined how the agencies reacted when, for the first time, the 121 absent parents were overdue by more than 10 days in making their payments. Local agencies took no action in 51 cases, 42 percent, and in the other 70 cases, the agency usually did not act until more than 30 days had passed. In about half of those cases, no action was taken until more than 60 days had passed.

On the non-AFDC side, policies on services to the non-AFDC clients vary among the States. Some States require all child support matters to be managed by the child support agency. Other States will assist only clients who know of and apply for services. One State we visited sets a quota on the number of non-AFDC clients that can be served. Individuals needing services are placed on a waiting list if the local agency is already serving its quota of non-AFDC clients. Another State we visited has allowed counties to limit services by imposing a means test.

The local agencies were no quicker to act on non-AFDC child support that became past due. There were 194 delinquency periods involving 73 cases. The agencies took no action in 64 percent of the instances, and when they did act, they took an average of 93 days.

We found that the enforcement techniques that were being used were limited. The six local child support offices generally employed few enforcement techniques. Local agencies were more likely to use enforcement techniques involving the court system rather than an administrative measure such as a letter or telephone call. Court actions are more expensive, slower, and not always effective, and court expenses are normally defrayed from State and local budgets rather reimbursed as a Federal child support enforcement program expense.

Two counties we visited preferred a court order requiring delinquent parents to show cause why they should not be found in contempt of court as a main collection technique, because they had deputy sheriffs on staff to arrest those who did not comply with the order. Officials from these two counties stated that the show-cause order was an effective technique simply because they had the resources to carry out the arrest threat. Another local office used letters or telephone calls as principal techniques. The agency director said the show-cause order was not an effective technique because there was no staff assigned who had arrest authority.

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Finally, we found that there was poor control over case files and records. Only one of the locations we visited performed case inventories on a regular basis or reconciled hard-copy file information to the automated system. In the one location that is reconciling hard-copy files to the automated system, the reconciliation has disclosed instances where support orders were not always billed and arrearage balances were understated.

At the other locations, agency officials could only provide estimates of their total case inventories or expressed reservations about the accuracy of the case counts or the completeness of information in their automated systems. In one of these locations, for example, the OCSE Regional Office review found that approximately 15 percent of the case files could not be located, for various reasons. The review also disclosed that necessary information is not always entered on the automated system, and, if entered, it is not always timely, current, complete, or accurate.

Although we focused on collections and recognize the need to improve them, the improvements, we feel, should not come at the expense of such important program functions as establishing paternity and developing support orders.

Mr. Chairman, we have now presented our preliminary observations, and we hope that this testimony will provide insights for improving collection performance and will help in the committee's deliberations. We are prepared to work with your committee staff during next week's markup sessions, if you need us. We plan to issue our final report later this year.

We are now prepared to answer any questions you might have.

The CHAIRMAN. I think it is fair to say that what you presented demonstrates a fairly poor record by the States and local jurisdictions operating this program. You, apparently, found that few standards for enforcement of child support orders were in place in most areas. Is this a lack of commitment to the program? A lack of management? A lack of money? Have you made any conclusions?

Mr. DELFICO. We haven't concluded precisely right now, but I would say that we are leaning toward the first two more than the last. The lack of performance standards and goals for collection in the program is a definite management weakness. In some cases we have anecdotal information on a lack of interest.

The CHAIRMAN. It seems to me that before we start talking about more money rather than less, we ought to be talking about what the current performance is. It is customary around this place to say, "Well, if it doesn't work it must be a shortage of money." And I am willing to guess next in this case it is not a shortage of money at all; it is probably very poor performance and a lack of management techniques that would make the program work.

Now, there has been a lot of talk about how program collections have increased; but we required, as you know, in the 1981 reconciliation bill, that Federal income tax refunds be intercepted and delinquent child support payments be deducted for the welfare caseload. That procedure has been very successful; we collected $169 million in the first year and $174 million in the next. The average amount recovered per return, was $618 the first year and $523 the second.

Hasn't this tax intercept accounted for just about all of the increase in collections for the AFDC child support caseload?

Mr. DELFICO. That is my understanding, Mr. Chairman, that it has accounted for most of the increase, and without it there would be a decrease in the collections. Is that right, Tony?

Mr. LOFARO. Yes.

The CHAIRMAN. Right. So, I think when everybody comes in here saying how well the program works, it is only because we changed the law in 1981. We are now intercepting tax refunds, and we are collecting a lot of money through that process. I'll bet that procedure doesn't cost much, or at least very little over the total amount collected. So I am not convinced that we ought to keep all these matching rates as high as they are and that we need to liberalize the Federal support even more. There are a lot of people who have a special interest in getting more Federal money, because it creates jobs, and they are able to occupy some of those jobs.

We have a big, big problem called the deficit. If we don't get a handle on that, there will be a lot of people out of work here in 16, 18, 24 months. So I hope that we don't go wild in this committee and try to beef up the program with more Federal money that we don't have.

Did your study turn up any problem areas which would be improved by increased Federal involvement and oversight of the program?

Mr. DELFICO. Yes; it has shown that, though the Department of Health and Human Services [HSS] has paid quite a bit of attention to the program, there is a need for collection standards and goals. We feel HSS should focus more on helping the States establish collection standards and goals in order to improve collections. Again, we are basing that information on preliminary data, but that is the direction we would suggest right now.

The CHAIRMAN. Have you had a chance to develop any opinion on the competence and expertise of the Federal Office of Child Support Enforcement?

Mr. DELFICO. Preliminary information right now is being analyzed, and we can't really say at this time.

The CHAIRMAN. But that will be available some time later on?

Mr. DELFICO. Yes.

The CHAIRMAN. Now, as I understand, the most important enforcement procedure available is the mandatory wage withholding. That is in the House bill, it has been introduced on the Senate side, it has been supported by nearly every witness we have had. Has your study found that wage withholding is an effective tool? Have you made any judgments on that?

Mr. **Delfico**. Yes, we have made judgments on that, and it has shown that it is a very effective enforcement tool.

We have not looked at the cost of using wage withholding; that is, the administrative costs to local agencies to provide the information for wage withholding. We think at this stage, with early data, that it is going to be minimal compared to other enforcement techniques.

The **Chairman**. It would seem to me, from the cost standpoint, it would be very low cost, once it is done.

Have you developed a position as to what point mandatory withholding should be implemented? How far should the case be in arrears? You have indicated some rather sad figures there as far as the payments are concerned.

Mr. **Delfico**. Our reaction to the statistics as far as payments are concerned is that very little is being done after the first 10-day grace period, one might say.

The **Chairman**. You had some 91-day figure there.

Mr. **Delfico**. Ninety-one days was sort of an average for action.

The **Chairman**. What happens? Obviously, nothing is done.

Mr. **Delfico**. More timely use of enforcement techniques would benefit the program, and it would clearly benefit collections.

The **Chairman**. As I understand, you are willing to work with our staff on both sides and the other Members' staffs who have an interest in this legislation.

Mr. **Delfico**. Surely.

The **Chairman**. And I would hope that if in fact money is not a problem that you will be willing to state that in those staff discussions, because there is a tendency around this town to, when in doubt, spend more.

Mr. **Delfico**. We will be glad to help in any way we can, Mr. Chairman.

[The prepared statement of Joseph F. Delfico follows:]

UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

FOR RELEASE ON DELIVERY
EXPECTED AT 2:00 P.M.
JANUARY 24, 1984

STATEMENT OF

JOSEPH F. DELFICO, ASSOCIATE DIRECTOR

HUMAN RESOURCES DIVISION

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

ON THE

EXAMINATION OF CHILD SUPPORT COLLECTION ACTIVITIES

Mr. Chairman and Members of the Committee, we are here today to discuss the results of our on-going evaluation of Federal, State and local efforts to collect child support. We are performing this evaluation at the request of the Senate Committee on the Budget and Representative Mario Biaggi.

Today, the United States' child support program is the subject of intense public debate and congressional attention. A central issue today is how do we improve child support enforcement and increase collections. The number of single parent households has increased dramatically. Many absent parents are not fulfilling their court ordered obligations to support their children, and consequently welfare programs are bearing the costly support burden.

Recently, the House passed H.R.4325--the Child Support Enforcement Amendments of 1983--to improve the child support program through such measures as income withholding and incentive payments to States. Although our purpose today is not to discuss the bill, we hope our testimony and subsequent report will be useful in future deliberations about it.

PROGRAM ACCOMPLISHMENTS

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The Child Support Enforcement program can point to significant accomplishments since its beginning in fiscal year 1976. By the end of fiscal year 1982 total collections had tripled to almost $1.8 billion, 2.1 million support orders were established and paternity determined for more than 800,000 children. In addition, the program helped to locate more than 3 million absent parents over five years ending in fiscal year 1982.

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GAO's WORK

We reviewed collection efforts at five State Child Support offices (California, Florida, Maryland, Michigan and New York) and six local offices (Sacramento County, CA; Jacksonville, FL; Montgomery County, MD; Oakland and Wayne Counties, MI; and Schenectady County, NY). At each local agency, we reviewed how the agency managed selected child support cases for a 1 year period beginning around January 1982. To date we have completed preliminary analysis of 222 cases (127 AFDC and 95 non-AFDC) cases at 5 locations where the agency first became responsible for collecting support.

PRELIMINARY OBSERVATIONS

Absent parents do not frequently pay their child support

We examined the paying habits of the 222 absent parents. Besides determining the total amount of support due compared to the amount paid for the study year, we focused on cases where payments were late by more than 10 days--a past due period used by various collection officials to trigger the need for initiating collection action. Absent parents paid 50 percent of the support that was due for the study year. Absent parents associated with non-AFDC sample cases showed better payment performance than absent parents whose children received AFDC.

	Type of case		
	AFDC	Non-AFDC	Combined
Percent of child support due that was paid	31.1	64.0	49.8
Percent paying all support due	6.3	17.9	11.3
Percent making no payments	29.9	20.0	25.7

About 88 percent of the sample absent parents were delinquent by more than 10 days at least once during the study year. This included 121 (95 percent) of the AFDC cases and 74 (78 percent) of the non-AFDC cases. The average period of nonpayment was 3 months. Three-fourths of those who resumed paying experienced at least one more delinquency period.

The delinquency (payment late by more than 10 days) usually occured when the very first payment to the child support agency was due. Eighty-one (64 percent) of the first payments due for AFDC cases were late. Fifty-seven (60 percent) of the non-AFDC absent parents were late in making their first payment.

There are few collection standards for the enforcement of child support orders

Though the Child Support Program is a Federal, State and local partnership, the local jurisdictions are the principle program managers. The Federal and State Governments have chosen to allow the local agencies wide latitude in determining how and when support orders will be enforced and monies are to be collected from the absent parent.

Although the Federal Office of Child Support Enforcement (OCSE) has encouraged agencies to develop standards to measure their work products, services, or tasks, the only enforcement related operating standard required by Federal regulations is that delinquencies be identified within 30 days and payors contacted "as soon as possible." However, there is no time limit to follow up an identified delinquency. Also, the local agencies exercise discretion in selecting methods of contacting obligors and determining appropriate enforcement actions.

Action to collect past due child support was for the most part non-existent

Discussions with responsible collection officials indicate that timely follow-up on past due child support payments is essential to (1) curb the development of poor payment habits among first-time delinquents, (2) promote the public perception that program enforcement is persistant and effective, and (3) optimize collections. For the purposes of our analysis, we measured how quickly if at all an agency initiated enforcement action once payments were more than 10 days late.

AFDC cases

Of the 127 AFDC cases reviewed, 121 involved 309 instances where support payments were late by more than 10 days. During the 1-year study period we found that the local agencies did not take any action nearly 60 percent of the time. When the agencies took action, an average 91 days had passed since the last payment was received from the absent parent.

We examined how the agencies reacted when for the first time the 121 absent parents were overdue by more than 10 days in making their payments. Local agencies took no action in 51 cases (42 percent). In the other 70 cases, the agency usually did not act until more than 30 days passed, and in about half of these cases, no action was taken until more than 60 days passed.

Non-AFDC

Policies on services to non-AFDC clients vary among States. Some States require all child support matters to be managed by the child support agency. Other States will assist only clients who know of and apply for services. One State we visited sets a quota on the number of non-AFDC clients that can be served. Individuals needing services are placed on a waiting list if the local agency is already serving its quota of non-AFDC clients. Another State we visited has allowed counties to limit services by imposing a "means test."

The local agencies were no quicker to act on non-AFDC child support that became past due. There were 194 delinquency periods (payments overdue longer than 10 days) involving 73 cases. The agencies took no action in 126 (64 percent) of the instances. When they did act, an average of 93 days had lapsed since the last payment was received from the absent parent.

Enforcement techniques used were limited

The six local child support offices generally employed few enforcement techniques. Local agencies were more likely to use enforcement techniques involving the court system rather than an administrative measure such as a letter or telephone call. Court actions are more expensive, slower, and not always effective, and court expenses are normally defrayed from state and local budgets rather than reimbursed as a Federal child support enforcement program expense.

Two counties visited preferred a court order--requiring delinquent parents to "show cause" why they should not be found in contempt of court--as a main collection technique because they had deputy sheriffs on staff to arrest those who did not comply with the order. Officials from these two counties stated the show cause order was an effective technique because they had the resources to carry out an arrest threat. Another local office used letters or telephone calls as principle techniques. The agency director said the show cause order was not an effective technique because there was no staff assigned who had arrest authority.

The withholding of support payments from wages, known as "wage assignment," was described by child support officials we spoke to and in some literature as being the most effective collection technique for cases involving employed absent parents. Of the 127 AFDC cases reviewed, wage assignments were used in 30. Overall, 64 percent of support due was collected. This compares to the average of 50 percent of the support collected from the entire sample group.

Poor control over case files and records

Only one of the locations we visited performed case inventories on a regular basis or reconciled hard copy file information to the automated system. In the one location that is reconciling hard copy files to the automated system, the reconcilation has disclosed instances where:

--support orders were not always billed, and

--arrearage balances were understated.

At the other locations, agency officials could only provide estimates of their total case inventories or expressed reservations about the accuracy of the case counts or the completeness of information in their automated systems. In one of these locations, for example, an OCSE Regional Office review found that approximately 15 percent of the case files could not be located for various reasons. The review also disclosed that necessary information is not always entered on the automated system and if entered, it is not always timely, current, complete or accurate.

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Mr. Chairman, although we have presented our preliminary observations at this time, we hope that this testimony has provided insights for improving collection performance and will help in the committee's deliberations. We plan to issue our final report later in the year. This completes our testimony and we are prepared to answer any questions.

The **Chairman**. That concludes today's hearing. On Thursday, at 1:30 in the afternoon we will again have hearings on this legislation. We have about 20 witnesses on Thursday, and we look forward to seeing you all then.

[Whereupon, at 4:44 p.m., the hearing was recessed, to reconvene Thursday, January 26, 1984, at 1:30 p.m.]

CHILD SUPPORT ENFORCEMENT PROGRAM REFORM PROPOSALS

THURSDAY, JANUARY 26, 1984

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.

The committee reconvened, pursuant to notice, at 1:30 p.m. in room SD-215, Dirksen Senate Office Building, Hon. Bob Packwood presiding.

Present: Senators Packwood, Durenberger, Grassley, Long, and Bradley.

[The press release announcing the hearing follows:]

[Press release from the U.S. Senate, Committee on Finance, Dirksen Senate Office Building, January 13, 1984]

SENATE FINANCE COMMITTEE SETS ADDITIONAL HEARING ON CHILD SUPPORT ENFORCEMENT PROGRAM REFORM PROPOSALS

Senator Robert J. Dole (R., Kans.), Chairman of the Senate Finance Committee, announced today that the Committee will hold a second hearing on Thursday, January 26, 1984, on pending legislation dealing with the Child Support Enforcement Program.

The hearing will begin at 10:00 a.m. on January 26, 1984 in Room SD-215 of the Dirksen Senate Office Building.

In announcing the hearing, Senator Dole said "the response to the announcement of the January 24th hearing on child support enforcement reform has been substantial. In order to accommodate individuals with statements of interest to the Committee, it is necessary to schedule an additional hearing."

Further requests to testify will not be accepted. Witnesses will be notified as soon as practicable whether it is possible to schedule them to present oral testimony. Witnesses will also be notified as to the date of the hearing at which they will testify.

Senator PACKWOOD. The hearing will come to order, please. The chairman has asked me to start the hearing. He will be along shortly.

I might say to the audience that at about 5 minutes to 2 I have to leave and go to the floor. I am managing the telephone bill, and we go back on it at 2 o'clock.

We will start today with a panel consisting of Patricia Kelly, the president and cofounder of KINDER; Bettianne Welch, the president and cofounder of FOCUS; and Mary Ryder, the vice president of VOICES.

Do you have any objections to going in the order that you are on the witness list? You can change it, if you want.

Ms. WELCH. I can change my name? Is that it? [Laughter.]

Senator PACKWOOD. You switch it around any way you want.

Ms. WELCH. All right.

Senator PACKWOOD. Let's start with Patricia Kelly.

STATEMENT OF PATRICIA KELLY, PRESIDENT AND COFOUNDER, KINDER—KIDS IN NEED DESERVE EQUAL RIGHTS—FLINT, MICH.

Ms. KELLY. First of all, I am Patricia Kelly. I am cofounder of KINDER. We are a national organization of parents concerned with children's rights, dealing mostly with family domestic relations matters. Obviously, the issue today is child support.

I would like to thank Senator Long for his long-term interest in the issue, and, of course, Mrs. Heckler, who has made this an issue in the last 1½ years and who I believe has been really instrumental in bringing us where we are today, and, of course, President Reagan, along with IV-D administrators. We thank them very much.

What I would like to do today, because I am representing parents, I have incorporated into my written testimony a number of letters from parents across the country that have been sent to KINDER. We have taken excerpts from these letters. I think they are pretty indicative of the kinds of problems that parents are having with the child support system.

A lady from Indiana wrote us and said, "I called my Senator to ask for help. His secretary told me that the best thing to do was to sell my house and go on welfare. She said that the Senators get lots of letters from women who can't get their husbands to pay support, and that all they could tell them to do was to keep going through the legal system or just to go on welfare and let the State take care of it."

A lady from Seattle, Wash., wrote that "Because of his lack of support, I have had to borrow money and feed my children out of the food banks. I have tried to go through Consumer Credit, and they stated they don't know how I have existed this long."

A lady from North Carolina wrote, "My ex-husband is an entertainer in a known group. This group has done extensive travel in the United States, overseas, and has even sung at the White House in Washington for the President. And yet, no one can get him to pay support for his child."

A lady from Missouri wrote, "I have written to our Attorney General, prosecuting attorney, Citizens Complaints, and the judge who has had us in court several times. So far it hasn't done anything. Right now, my ex has arrearages in child support up to $16,000. I don't believe the State would allow this to happen if I was that far behind in taxes; I wouldn't have a home."

And then a lady from Chicago Ridge, Ill., wrote, "I was quite young when my divorce was granted, and I just assumed that when problems with child support payments arose that some legal process would intervene and enforce the original court order. However, my frustration quickly turned into an agonizing obsession. This attitude and indifference of the people in charge of local programs is shocking. Their collective opinions are: 'If you are getting anything, feel lucky.' Well, I don't. Through all of this procrastination, my son awaits patiently for school clothes, books, supplies, and a chance to enjoy the same privileges as his companions."

The letters go on and on.

The major problem that we have found is that the system bases its whole intent on collecting child support for AFDC-related cases. You know, you don't get any help.

Senator PACKWOOD. I will let you go on; you don't have to stop right there. But you were very wise in lauding Senator Long. We wouldn't even be collecting it from AFDC cases had it not been for him.

Ms. KELLY. Right.

Senator PACKWOOD. And we had to do that over the objections of the Internal Revenue Service. And, of course, they object to extending it even further, even though he has proven that it works. It collects money, saves the Federal Government money, saves the States money. But he almost singlehandedly deserves the credit for doing that, and we will have to face the same opposition for non-AFDC cases that we faced initially for AFDC.

Go ahead. I didn't mean to interrupt you.

Ms. KELLY. Well, up until last week I was a welfare mother. I just got married. My husband will appreciate that, because we were married 3 days and I had to leave to come to Washington for this purpose. So, I am spending my honeymoon alone. [Laughter.]

I was a welfare mother off and on for 4 years, from the time of my divorce until my remarriage. My ex-husband was a General Motors employee making very good money. We lived in the suburbs. And I found myself within weeks poverty stricken. I applied for welfare 3 months after the initial separation. I would have had to apply within 2 weeks if my sister had not stepped in and supported my family. I had not worked; I was a mother.

So there are real problems. And although there are so many bills pending, if we could see stronger interstate collections, if we could see mandatory wage assignments—1 month is too long. I know there is a lot of conversation about 60 days or 30 days, but, believe me, he took the checkbook, the car keys. I would have been with my furniture on the front lawn. And I am not alone. There are thousands—thousands and thousands of kids. And the Government is going to pick up the tab, because you can't go without food for 30 days; there is just no way. And too many people are found in this position.

I don't know whose rights are more important—the fathers', the mothers', or the children's. Children have a right to eat and have a right to live somewhere.

Thank you.

Senator PACKWOOD. Thank you.

Ms. Welch?

[Ms. Kelly's prepared statement follows:]

KINDER
Kids In Need Deserve Equal Rights ©

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TESTIMONY

SENATE COMMITTEE ON FINANCE

Senators, my name is Patricia Kelly. I am President and co-founder of KINDER - Kids In Need Deserve Equal Rights. I have travelled a great distance to relay the concerns of KINDER members nationwide. As a divorced parent I know personally the horror of attempting to support 3 children without financial help from their father.

KINDER is a national organization whose main purpose is to advocate necessary changes in the family law system as it pertains to children from single-parent and divorced families. KINDER'S formation in Michigan 18 months ago has given thousands of parents across America a glimmer of hope.

For all too many years, child support, visitation, and custody were subjects that received little attention from policy makers and elected officials. Child support became the least favorite subject in political circles, because a stand on the issue might very well alienate 50% of the voting population.

Due largely to the hard work of parents, legislators have finally begun to see that child support is more than a political hot potatoe. Besides the obvious economic implications child support is fast becoming one of the most wide spread social problems confronting the American people in the 1980's. Child support can no longer be viewed as a male vs female or as a partisan party versus party problem.

Statistic after statistic proves the devastating effects the antiquated child support collection system has on millions of children.

America has long considered it's people to be its greatest asset, but has allowed millions of its children to live in or near poverty due to lack of child support. A country considered a world leader should be ashamed that less than 50% of absent American parents are contributing to the support of thier children on a regular basis.

The most appalling problem in child support enforcement is that the government puts more importance on re-couping tax dollars spent on welfare than on curing the illness, by legally forcing all absent-parents to support their children.

Current laws are as effective in enforcing child support orders as a band-aid is on a cancerous tumor. When, what is desperately needed is major surgery.

Over the last six months KINDER has received hundreds of letters from custodial parents nationwide who are not receiving child support. Each letter demonstrates the desperation a parent feels when the child support system turns a deaf ear and refuses to intercede on behalf of their forgotten children. Ms. D. H. from Poland, Indianna writes: "I called my Senator to ask for help, his secretary told me the best thing to do was to sell my house and go on welfare. She said that the Senators get a lot of letters from women that can't get their ex-husbands to pay support and that all they could tell them was to keep going through the legal system or just go on welfare and let the state take care of it."

Ms. G. W. from Seattle, Washington:

"Because of his lack of support I have had to borrow money and feed my children out of the food banks. I have tried to go through consumer credit, and they stated they don't know how I've existed this long."

Ms. S. F. from Tucson, Arizona:

"My ex-husband is suppose to maintain hospitalization insurance comparable to when we were divorced, which was full coverage. In December of 1982, one of the children fell off a mountain and was in the hospital for 4 days. He had surgery and is undergoing therapy. I am now receiving bills from doctors in the amount so far of $500.00, which his insurance does not pay. I really don't know what to do. If they take part of my paycheck I don't know how we'll survive. I don't know how to make him pay. I can't afford a lawyer, if I could I wouldn't need child support."

Ms. C. S. from Ansted, West Virginia:

"My daughter Jennifer is worth fighting for and protecting at any cost. But she should not be made to live in poverty and fear. I am outraged at the courts and even welfare. Our children need our help, they cannot go to Washington to protect themselves. I get $164.00 a month from welfare. It must pay everything. He has never paid child support at all.

Ms. O. M. from Wilmington, North Carolina:

"My ex-husband is an entertainer, in a known group. This group has done extensive travel in the United States, over-seas and even sang at the White House in Washington for the President, and yet no one can get him to support his child."

Ms. C. S. from Woodward, Oklahoma:

"I've written to Congressmen, Governor's, and even President Reagan. They all said to go through the Department of Human Services. I tried that, but so far it's been a year, and they haven't even got it to court yet. My ex-husband lives in Kansas, and the Department of

Human Services knows his address, but they told me that since I'm not on welfare they don't get in a hurry to get anything done. I paid $150 for their services, but don't seem to be getting anywhere. It seems that if your not getting welfare, there's no help."

Ms. J. B. from Bartlett, Tennessee:

"I am currently involved in going through the court routine for the third time in six years (in three different states) to collect unpaid support. In both that case and in the current one, I do not really feel that my case has been presented fully under the current Interstate Reciprocal Support System. Another area I protest vehemently is the awareness that mothers receiving welfare aid for their children have their child support cases handled with far greater effort by the government agencies."

Ms. S. C. from Jefferson City, Missouri:

"I have written to our Attorney General, Prosecuting Attorney, Citizens Complaints and the Judge who has had us in court serveral times. So far, it hasn't done anything. Right now my ex has arrearages in child support up to $16,000. I don't believe the state would allow this to happen. If I was that far behind in taxes I wouldn't have a home."

Ms. D. B. from Chicago Ridge, Illinois:

"I was quite young when my divorce was granted and just assumed when the problems with the support payments arose that some legal process would intervene and enforce the original court order. However, my frustration quickly turned into an agonizing obsession. The attitudes and indifference of the people in charge of local programs is shocking! Their collective opinions are, "If your getting anything, feel lucky." Well I don't! Throughout all this procrastination my son waits patiently for; school clothes, books/supplies and a chance to enjoy the same privileges as his companions."

Ms. S. H. from Cheektowaga, New York:

"I was on welfare for approximately one year while attending secretarial school. I then found a job, and am presently employed. I found that my income at $5.00 per hour eliminated me from any benefits such as child care, food stamps, etc. Personally, I feel that I was better off on welfare. I feel that I have been treated very unfairly through the Family Court system. I realize that had I stayed on welfare, Family Court would have been much more persistent in seeing that my husband pays support."

Ms. L. P. from Hoyt Lakes, Minnesota:

"Times are pretty rough here on the Iron Range what with layoffs and the state of the economy and I don't feel that $100.00 a month for three children is asking to much especially after years of getting nothing. I have been in contact with the Child Collections Agency located in Virginia, Minnesota for several months now and have received no satisfaction. I gathered all the information they required like his address, phone number and Social Security Number, and they still come up with nothing."

Ms. K. C. from Tampa, Florida:

"Have spent six and a half years trying to obtain court ordered child support. Have been thru URESA to no avail. Delinquent payments are in excess of $15,000."

Ms. D. T. from West Allis, Wisconsin:

"Lately my kids are lucky if they see $60.00 a month from my ex-husband. Child support enforcement here tells me they can't do anything to help. And I can't afford to hire someone to help us. I just don't know what to do anymore."

Ms. J. K. from Leavenworth, Kansas:

"I'm so tired of begging for something my kids are entitled to. It's like a catch 22. I need the child support, which I don't get. So I get ADC. Because of certain rules if I want to go to work to try to get ahead of my bills I loose my ADC because of my income. So I sit at home. If I was getting my child support from my ex I wouldn't be on ADC."

The most obvious point made in each letter is that the child support enforcement system is not working well anywhere. Each state has different laws, policys and procedures, although some states are proven leaders comparitively speaking, none should boast. Not one state, or local agency can brag of even a 50% compliance rate of court support orders. What is needed is strong Federal mandates forcing every state to upgrade collection efforts, and guidelines that will insure uniformity and reciprocity.

KINDER submits the following recommendations for improvements in Federal child support enforcement system:

- Federally mandated central registry system in each state to record and disperse all child support payments and arrearages
- Uniform standard objectives for determining the amount of child support orders. Standards should combine absent parents "ability to pay", and "actual resources". Using a percentage of the absent parents income to determine child support obligations has proven effective in Michigan and has resulted in higher monthly orders. If used uniformly fewer single-parent families will rely on government social welfare programs
- Equal enforcement and funding for non-AFDC cases
- Federally mandated wage withholding laws in each state

- Federally mandated immediate wage withholding laws upon issuance of a court support order
- Federal mandate that each state must also seek Medical Insurance for minor children when seeking child support
- A budgeting structure giving equal credit to responding states as well as initiating states in all URESA cases.
- A uniform federal income tax intercept program for all cases (not exclusively AFDC) within 12 months of forming a central registry
- Federal mandate that all states with a personal income tax institute a state income tax intercept program within 12 months of forming a central registry
- The appointment and funding for a National Task Force comprised of child support practitioners, judges, legislators, citizens, and consumers to make recommendations for improvements in policys and practices in the child support system to the administration, congress, state legislators and professional organizations.
- Federal statute that allows the attachment of real property to collect child support arrearages
- Federal statute making child support arrearages a legal debt that can be registered on the payors credit record.

On behalf of millions of children I pray that this committee will consider the needs of children first and foremost when considering any legislation regarding child support enforcement. Thank You.

STATEMENT OF BETTIANNE WELCH, PRESIDENT AND COFOUNDER, FOCUS—FOR OUR CHILDREN'S UNPAID SUPPORT—ACCOMPANIED BY GERALD A. CANNIZZARO, VICE PRESIDENT AND COFOUNDER, VIENNA, VA.

Ms. **Welch**. Thank you, Senator Packwood It is nice for us to be back here; we were here in August. We thank you very much for inviting us.

I am Bettianne Welch, president and cofounder of FOCUS, Inc.—For Our Children's Unpaid Support. With me is Mr. Gerald Cannizzaro, who is vice president of FOCUS. He is here to help answer any questions.

We were founded on the premise that all children are entitled to the financial support necessary to meet their basic needs. This support is both moral and legal, the responsibility of both parents and not just the custodial parent.

What I would like to do, sir, is to summarize basically the things that we feel need to be incorporated in any legislation.

Senator **Packwood**. Go right ahead.

Ms. **Welch**. We want a 30-day wage assignment, at the maximum. We would certainly like to see it automatic. If that is not possible, 30 days. As Patti just said, you know, at the end of 30 days your creditors want their money. And although the courts hold our child support in abeyance, they put the arrearages on hold for as long as 2 and 3 years. That is not acceptable to our creditors.

We have had a woman just recently whose car was repossessed and whose home was taken. She has thousands of dollars sitting in the court, but the creditors are not going to accept that, you know, for next year, or whenever it happens.

We want mandatory credit reporting on child support arrearages. We feel the idea that a delinquent parent can go and get more credit because his child support arrearages are not reported to a credit agency as a legal debt is unfair. They are court-ordered; they are a legal debt. He then goes in and buys—or she, as the case may be—and can finance a new home, a second home, a pleasure boat, another car. Ironically, the additional obligations that he has taken on are then given to the court as the reason for his inability to pay child support, and they are accepted as such, because the other creditors then have priority. We feel that as an arrearage is at least a thousand dollars, or lower, it must be reported by the States to the credit agencies.

We want equal collection treatment for AFDC and non-AFDC families; a system that discourages the custodial parent from becoming self-supporting is economically, morally, and socially unacceptable.

Patti told you what women are told by the system, and it's true. They are told to go on welfare. We don't want to be on welfare. You know, I have been a self-supporting single parent for 5 years now, with three children. It has been very, very difficult. I have had an interstate case that I have fought between the State of Virginia and the State of New York. And frankly, my case was settled after I appeared before your committee. Just coincidentally, the court in New York decided maybe they ought to do something. I mean that's—you know, you are either going to have to have hundreds of thousands of women testifying, or something has got to be done about the interstate problem, and for non-AFDC and AFDC families.

I don't really want to take up any more of your time, sir, except to say that in 1981 when we started our group, we felt like voices crying in the wilderness. No one knew what we were talking about. The media picked up on it and so did the public. Taxpayers are outraged. We stood on street corners and collected 5,000 signatures on petitions from people who said, "Do you mean my taxes go because your ex-husbands won't pay their bills? That's ridiculous. Do something about it."

We thank you for allowing us to appear, and we look for speedy passage of a strong bill

[Ms. Welch's prepared statement follows:]

F.O.C.U.S.

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TESTIMONY ON

CHILD SUPPORT ENFORCEMENT LEGISLATION

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

Bettianne Welch
Gerald Cannizzaro
January 24, 1984

SUMMARY

F.O.C.U.S. TESTIMONY BEFORE
SENATE FINANCE COMMITTEE, JANUARY 24, 1984

The following major issues are addressed in our testimony today:

- 30-DAY WAGE ASSIGNMENT MUST BE MANDATORY IN ALL STATES -- Most family expenses are payable in 30 days or less.

- MANDATORY CREDIT REPORTING ON CHILD SUPPORT ARREARAGES -- to eliminate delinquent non-custodial parents from expanding their own financial resources at the expense of their children.

- EQUAL COLLECTION TREATMENT FOR NON-AFDC AND AFDC FAMILIES -- We need to encourage custodial parents to become self-supporting.

- INTERSTATE COLLECTION PROCEDURES MUST BE STRENGTHENED AND EXPANDED -- States will not automatically respond to out-of-state requests.

- LIENS MUST BE PLACED AGAINST PERSONAL PROPERTY AND OTHER ASSETS, SUCH AS INSURANCE AWARDS, PENSIONS AND INHERITANCES.

- ESTABLISHMENT OF A TOLL-FREE NATIONAL CHILD SUPPORT INFORMATION HOT-LINE -- manned by competent individuals who can provide information to help custodial parents receive their child support payments.

- NECESSITY OF A MINIMUM MONTHLY CHILD SUPPORT AWARD FOR EACH CHILD SHARED BY BOTH PARENTS -- This would help ensure that custodial parents have adequate money to support their families. Currently, child support awards vary dramatically both on state and on local levels.

Senator Dole, members of the Finance Committee, I am Bettianne Welch, President and Co-Founder of F.O.C.U.S., Inc. (For Our Children's Unpaid Support). My colleague is Gerald Cannizzaro, Vice President and Co-Founder. We are a citizen advocacy group, founded in July 1981, in Virginia. I am currently an Advisory Member of the Interstate Child Support Enforcement Study being conducted by the Center for Human Studies, under a grant from the Social Security Administration. F.O.C.U.S. appreciates this opportunity to appear again before your Committee in regard to the Child Support Enforcement issue.

Seated with me is Mr. Gerald Cannizzaro, who is also available to respond to your questions. Mr. Cannizzaro, co-founder of F.O.C.U.S., is a financial analyst and advisor by profession.

F.O.C.U.S. is founded on the premise that all children are entitled to the financial support necessary to meet their basic needs. This support is the moral and legal responsibility of both parents. The initial objective of the F.O.C.U.S. organization was to improve child support collections on a state level. As a result of the arousal of public sentiment, media attention and legislative concern, a 30-day Wage Assignment Bill was passed in Virginia and signed into law on April 8, 1982. Ms. Welch and Mr. Cannizzaro, along with their children, were present as Governor Charles S. Robb signed the bill. This bill was co-sponsored by former Virginia Delegate John H. Rust, Jr. (R) and former state Senator Herbert H. Bateman (R). Congressman Bateman spoke in support of H.R. 4325 on November 16, 1983 (see Congressional Record - House).

Our experience in promoting the passage of legislation on the state level, as well as continued involvement with interstate collection problems, reinforced our conviction that only Federal legislation could solve this national outrage. Weak legislation in one state can negate strong legislation in another. The result is that the receiving parent is left without any effective legal recourse. A non-custodial parent has often sought shelter in one or more states that are less vigorous in their legislation and/or collection procedures. We are pleased that H.R. 4325 passed unanimously in the House and look forward to equally strong legislation from the Senate.

F.O.C.U.S. believes that the following provisions must be included to ensure that the FINAL legislation will end the economic bankruptcy of America's children.

- 30-DAY WAGE ASSIGNMENT MUST BE MANDATORY IN ALL STATES. Since our economy is based on the payment of bills on a 30-day basis, any longer period of accumulated arrearages forces economic hardship on the recipient family. We are aware, for example, of a custodial parent whose home and car were repossessed. Her appeals, based on the fact that her child support was in arrears, made no difference to her creditors. Every month the custodial parent must pay for major household expenses, such as mortgage or rent and utilities, as well as food, clothing, childcare and medical expenses. Non-payment of these expenses results in loss of services and damage to the credit history of the custodial parent. Although the courts hold child support arrearages "in abeyance", no other segment of the business community holds their bills in a similar fashion.

- MANDATORY CREDIT REPORTING ON CHILD SUPPORT ARREARAGES. Unless this measure is adopted, delinquent non-custodial parents can continue expanding their own financial resources at the expense of their children. Members of our organization can attest to delinquent non-custodial parents obtaining loans for new cars, second homes, pleasure boats, recreational vehicles and home remodeling, despite the fact that they are in violation of their court-ordered support payments. Ironically, these additional obligations are then presented to the court by the delinquent parent as the reason for their inability to pay child support.

- EQUAL COLLECTION TREATMENT FOR NON-AFDC AND AFDC FAMILIES. We support an incentive payment formula that will force equal collection efforts. A system that discourages a custodial parent from becoming self-supporting is economically, morally and socially unacceptable.

- INTERSTATE COLLECTION PROCEDURES MUST BE STRENGTHENED AND EXPANDED. We endorse the special funds for utilizing innovative techniques or procedures as outlined in H.R. 4325. The following is an example of interstate collections from an actual case:

INITIATING STATE	RESPONDING STATE
Petition 4/6/81	Petition Answered 5/29/81
	"Results in 8 to 12 Weeks"
	Court Hearing 6/29/81
	No Payment
Petition 12/2/81	"Will answer in 4 to 6 Weeks"
	Court Hearing 1/20/82
	Case Adjourned 2/25/82
	Case Heard 3/2/82
	Results: Arrearages 'Held in Abeyance' ($5,580); Award Lowered

In this example, the action of the initiating state was not automatic; it resulted from repeated efforts by the custodial parent, as well as two members of Congress. Most interstate cases elicit no automatic response from the initiating agency. Cases have remained on file with no action for as long as 18 years!

- LIENS AGAINST PERSONAL PROPERTY AND OTHER ASSETS, SUCH AS INSURANCE AWARDS, PENSIONS AND INHERITANCES. F.O.C.U.S. strongly supports this requirement.

- PUBLICITY OF THE AVAILABILITY OF CHILD SUPPORT ENFORCEMENT SERVICES. F.O.C.U.S. strongly urges Congress to provide funding for the establishment and promotion of a Federal Child Support Information Hotline. This should be a toll-free number, available throughout the United States and manned by competent individuals who are well-versed in all areas of the child support enforcement problem.

- NECESSITY OF A MINIMUM MONTHLY CHILD SUPPORT AWARD FOR EACH CHILD SHARED BY BOTH PARENTS. In our previous testimony on July 14, 1983, we strongly recommended the adoption of a Child Subsistence Payment Level. The State of Wisconsin is now considering this as a planned reform, as stated in an article by Judy Mann in The Washington Post (1/18/84). The minimum annual guaranteed benefit proposed in Wisconsin is:

NO. OF CHILDREN	AMOUNT - ANNUAL BENEFIT
1	$3,500
2	$5,000
3 +	$6,000

Our own research, using Department of Agriculture - National Data, indicates these dollar amounts are accurate and reliable estimates on the current cost of raising our children.

F.O.C.U.S. strongly supports all the additional points addressed in H.R. 4325, including posting of security bonds, tracking and monitoring by a state clearinghouse and the creation of a Blue-Ribbon Committee in each state with child advocacy members. We believe that a small entrance fee may be necessary and should be charged to the delinquent parent. We also endorse the continuation of benefits to families who have lost AFDC eligibility due to the payment of child support.

We urge Congress to pass strong legislation as quickly as possible to end the economic child abuse that is rampant throughout the United States. In 1981, F.O.C.U.S. and other advocacy groups were "voices crying in the wilderness." We were virtually ignored by the judicial and legislative branches of government. The unanimous passage of H.R. 4325 in November 1983 sent out a strong message of concern to the victims of this national disgrace. It was a tremendous change in attitude and awareness in a very short period of time. We now ask the Senate to respond in a similar manner.

In anticipation of a strong and workable child support enforcement bill, our members and our children thank you.

Senator **Packwood**. You know, I have been in the Senate 15 years, and I have never yet fully grasped why certain issues peak all of a sudden. The child support issue has peaked. The Senate will pass this bill, and it will be a good one. We are going to have some minor arguments with the Internal Revenue Service, but by and large the administration is with us on the bulk of what we are trying to do. But I think part of the reason is because you are willing to come and testify I realize this is no pleasure for you. Clearly, it has cost. You are spending time away from the kids. And I would rather have witnesses like you than all of the professional lobbyists available, because you tell a story that simply cannot be told unless you have lived through it. I appreciate it.

Ms. **Welch**. Well, we have appreciated the opportunity to be here, and the fact that you have invited us back again really shows us how very, very much you care. And we thank you.

Senator **Packwood**. Thank you.

Ms. Ryder?

STATEMENT OF MARY RYDER, VICE PRESIDENT, VOICES—VIRGINIANS ORGANIZED TO INSURE CHILDREN'S ENTITLEMENT TO SUPPORT—FAIRFAX, VA.

Ms. **Ryder**. My name is Mary Ryder, and I am the vice president of VOICES, Virginians Organized To Insure Children's Entitlement to Support.

We all share the common problem, the inability to collect court-ordered support money for our children. As the custodial parent of three children, I wish to submit some proposals we at VOICES feel are necessary to any legislation considered on this vital issue:

(*a*). The imposition of tougher penalties for child support evaders.

(*b*). That both parents be required by law to provide each other with current physical addresses.

(*c*). Encourage the reporting of arrearages to credit bureaus.

(*d*). Stress the importance of correlating credit bureau data with the Federal Parent Locator Service.

(*e*). Protection for custodial parents from threats and harrassment by their employers—I had to resign in order to be here today.

Senator **Packwood**. You had to resign?

Ms. **Ryder**. Yes; that's all right. I got another job, so it's OK.

(*f*). That joint custody orders be considered in cases where it would be feasible.

(*g*). That the present requirements of annual audits of the State programs not be modified

(*h*). That penalties for noncompliance by States not be reduced.

On behalf of all of the members of VOICES, thank you for allowing us to submit our views today.

Senator **Packwood**. Thank you.

[Ms. Ryder's prepared statement follows:]

VOICES **Virginians Organized to Insure Children's Entitlement to Support**
Post Office Box 12060, Arlington, VA 22209

TESTIMONY OF
VIRGINIANS ORGANIZED TO INSURE CHILDREN'S
ENTITLEMENT TO SUPPORT

VOICES

Prepared by

MARY R. RYDER AND RUTH E. MURPHY

Before the

SENATE COMMITTEE ON FINANCE
WASHINGTON, D. C.
January 26, 1984

PRESIDENT: Linda Whittington

VICE PRESIDENT: Mary R. Ryder

REGIONAL COORDINATOR: Ruth E. Murphy

TESTIMONY OF

MARY R. RYDER VICE PRESIDENT
RUTH E. MURPHY REGIONAL COORDINATOR

VIRGINIANS ORGANIZED TO INSURE CHILDREN'S ENTITLEMENT TO SUPPORT

* * * * * * * * * * * *

I wish to thank you for this opportunity to present testimony today on so vital an issue as Child Support Enforcement.

My name is Mary Ryder and I am the Vice President of Virginians Organized to Insure Children's Entitlement to Support.. VOICES.

Briefly, we are a self-educating, peer-support organization formed and operated by parents who are experiencing problems with child support collection. While our stories may vary from person to person, we all share a common problem: the inability to collect court-awarded support money for our children.

It is important to note that all orders handed down through the court system pertaining to child support, visitation, custody, etc., are a direct result of the War Game of Thermo-Nuclear Divorce. The divorce court, by its very nature, is a destructive arena. This arena becomes a circle with father, mother, and children, all victims on an emotional merry-go-round where there are no winners.....only losers.

As a victim myself, and as the custodial parent of three young children, I wish to submit several proposals and comments that members of VOICES feel are necessary in the passage of any legislation being considered regarding the enforcement of child-support court orders.

It is high time for those of us who support and carry the legal, moral, and financial responsibility for our young victims to stand up and be counted.

* * * * * * * * * * * *

NON-SUPPORT PENALTIES

When newspapers carry stories about a child being beaten, locked in a closet, sexually abused, or any other form of mistreatment, readers are generally outraged. Investigations get underway, arrests are made, trials are set. In most cases, severe penalties are rendered against the guilty party or parties.

Yet, there is an epidemic of child abuse in our social system. It goes virtually unpunished in the courts...if and when the cases are even brought to court.

I am referring to the lack of enforcement of child support payments. In most cases, these payments are sporadic (if made at all), thus requiring the custodial parent to work two jobs, seek assistance through county and other government agencies, or in desperation, place the children with relatives or agencies where they can be taken care of properly.

Since 1978, I have been involved in numerous nonsupport and other related domestic court hearings. In many of these cases, support payment arrearages amount in the thousands of dollars. Payments are few and far between; certainly nothing that can be relied on.

The guilty party is usually "tapped on the wrist" and sent home with a warning not to do it again. Some of them are even given ten-day jail sentences, to no avail.

I don't have to tell you what happens to someone who refuses to pay three parking tickets in this area. Believe me, this offense is considered to be far more serious than someone not supporting his or her children. Rather, those convicted of nonsupport get a week's "vacation" at the taxpayers' expense. The children are the ones who suffer.....not the guilty abusers.

Federal legislation requiring the States to impose and enforce tougher penalties on child-support evaders would be a strong deterrent to this crime.

It should no longer be the taxpayers' responsibility to support one-parent families, when the law could force the other parent to pay his or her equal share. 3

EXCHANGE OF ADDRESS INFORMATION

Both parents should be required by law to provide each other and the court or support agency with current physical addresses at all times.

Legislation of this kind would greatly improve procedures in inter-state cases, and would prevent a custodial parent from "hiding children while collecting ransom for them"; and, would discourage a non-custodial parent from evading notifications to appear in court on a support or other domestic-related matter.

More often than not, the ability to properly serve an obligor, or for that fact an obligee, with any court proceeding is greatly hampered because said person cannot be located by either the court itself or the other party.

If non-custodial parents are exercising their visitation rights, then it should be mandatory that the custodial parents be given the physical addresses of the non-custodial parents. Right at this moment, if I had a life-threatening emergency with one of the children, I have no way to contact my former spouse. Yet, when I drew up a consent order giving him visitation rights, I gave him my home address, and work and home telephone numbers. Although Mr. Ryder telephones me now and then, the exact location of his whereabouts is unknown not only to me, but also to the support counselor handling my case in court.

It is essential to consider the fact that in certain cases such exchanges of addresses, etc,, may not be viable. Certainly one should not be court ordered to give his or her living location if he or she has been threatened, previously physically abused, or where the court deems that it could be detrimental to the welfare of either the children or the parents themselves. In such instances, information of this nature should be held in strict confidence by the court or support agency involved in the case.

A severe penalty or fine should be provided to prevent evasive tactics.

REPORTING INFORMATION TO CREDIT BUREAUS

House Bill #4325 requires states to make available to consumer credit bureaus the amount of past-due support owed by absent parents. Credit Bureaus not only have to request this information, but pay a fee for it.

Senate Bill #1708 (Grassley) requires states to report periodically to consumer credit bureaus the amount of past-due support.

The value of reporting amounts of past-due support is unquestionable, since the end result would be a cap on the limit of credit to be extended. Creditors would also be provided with a character background of the applicant. If an applicant does not give full weight to the responsibilities of child support, then it can be expected that other responsibilities will evoke even less concern.

Upper level Credit Bureau management has indicated that new legislation offers no tangible benefits to them. They are reluctant to consider any degree of involvement. We are not dealing with a government agency, but rather a profit-making enterprise. By blocking credit for applicants, they would be acting as a free colection agency for the Federal government.

In keeping with the American way, Credit Bureaus are interested in contracting with the Federal government for use of their locating services to further enhance the Parent Locator Services.

Until now the lack of past-due child support information has not adversely affected the services provided to their customers. It would take a powerful force to encourage Credit Bureaus to pay a fee for information they do not deem valuable or that they can obtain in other ways.

An indepth study into the advantages of reporting past-due support amounts is needed to determine exactly who would benefit the most from this information.

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CORRELATING CREDIT BUREAU DATA WITH FEDERAL PARENT LOCATOR SERVICE

Less than satisfactory experiences have been reported by numerous child support recipients seeking to locate an absent parent through the present Federal and State Parent Locator Services. Information provided through normal channels, such as Social Security and IRS have proven to be at least one to two years old. We cannot begin to stress the importance of securing current data. Remember we are dealing with an element of mankind who is just above the criminal level in many cases, havinrg completely abandoned their children and financial responsibilities. Illegal social security numbers obtained for a price considerably lower than child support obligations are not uncommon in this evergrowing underground. New identities are easy to come by, thus thwarting the feeble attempts made on the part of the Parent Locator Services. The existing procedure of locating through a process of elimination on a state by state basis can take years and still not assure you of finding the missing parent.

Is there a way to improve and correct these weak spots in our present system?

VOICES would like to offer the following ideal for your consideration. Individuals who run from county to county and state to state to escape jurisdictional boundaries of court orders are still compelled to conform with certain requirements of society, such as:

1. Submitting change of address to Post Office
2. Submitting change of address to companies with whom you have a charge account
3. Opening new bank accounts
4. Applying for local credit
5. Advising change of employer

This type of vital information is processed into Credit Bureau Data Banks, which are organized regionally.

Correspondence dated 5/31/83 from Mr. Fred Schutzman, Deputy Director, Office of Child Support Enforcement stated that there was a great potential in using credit data for locating, enforcing and collecting support payments from absent parents, and that OCSE was evaluating Credit Bureau Services as a tool for improving the Child Support Enforcement Program.

A letter dated 1/6/84 is far less encouraging. Mr. Schutzman indicates that although there is value in accessing credit bureau information and studies do support significant benefits in locating absent parents, a Federal effort to enhance FPLS is not feasible because credit bureau files are organized regionally. Instead he cites the value of recent ability to access Selective Service System records, Veterans Administration files and Social Security Administration files for employers addresses for military personnel and Federal employees. This information is helpful, but limited. We need information of a different substance, which is not available from the above agencies.

A letter from the Alabama State Parent Locator Service to Senator Jeremiah Denton dated 8/29/83 suggests that the federal tax offset program has more current information; however this resource is not available through the FPLS.

If, as Mr. Schutzman has admitted,the studies performed on Credit Bureau Data have proven beyond a doubt to provide a substantial increase in locating information, then why is there a reluctance to pursue this avenue?

The results of locating missing parents of AFDC families would offset some of the monies spent in these cases. Locating absent parents of non-AFDC families would reduce the number of potential AFDC candidates.

Some states have contracts for credit bureau services. Their success is limited because their access capability is restricted to one regional office and in some cases only to local credit bureau offices.

We are proposing that the Federal Parent Locator Service establish regional office which would correspond with existing Credit Bureau Regional Offices. The expense for contractual services has been reported to be reasonable, when performed on a volume basis. A centralized FPLS office would receive requests from states. These requests would be forwarded to regional FPLS offices that would access Credit Bureau regional offices. Data would be gathered and sent back to the origin of the request.

The present procedure requires one to file through the State Parent Locator Services and ultimately with the Federal Parent Locator Service. This time frame takes approximately 6 months to a year to complete the bureaucratic red tape between only 2 states. More time is required when dealing with more than 2 states. Constructive changes in the present system would result im immediate access to all states and give us a time frame that we could live with.

Another segment of our neglected society, parents of missing or kidnapped children, should also be encouraged by the promising results of the Credit Bureau study. Whether it be a parent running away from the financial obligations of child support or a parent on the run with a kidnapped child, these individuals need to be located. All available resources should be utilized. These fugitives should not be assisted in their efforts to avoid being found by the very agency who main purpose is to locate missing parents.

* * * * * *

EQUAL JOB PROTECTION

Means should be established to protect a custodial parent from threats and harassment by employers when said parents are required by court subpoenas to appear for support hearings, "show cause" hearings, and other court-related matters which often require time away from their jobs.

While current proposed legislation provides that an employer may not dismiss or discriminate in the hiring or firing of a child-support obligor, there is no stipulation along such lines to protect the rights of a child-support recipient.

I cannot express to you in words how it feels to be reamed out by a superior at work because you have requested a few hours off one morning to appear, on behalf of your children, for a support hearing in court.

The emotional stress and strain from these court appearances are difficult enough to bear, but to be told at work that such appearances are nonsense, and "do no good anyway", is more than the average person can handle.

Each time I have requested court leave, I have been told I would be fired. These threats are constantly held over my head because they know I cannot afford to lose my job.....I have three children to support; and, of course, I rarely receive child-support payments.

I feel that if employers are to be required by law to respect the rights of a support payor, the same obligation should be put upon them with regard to the recipient.

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JOINT CUSTODY

We would propose that joint custody be implemented in cases where it would be feasible, and where both parents desire custody and/or are determined by the court to be fit parents. It takes two parents to provide emotional and financial stability for a young, growing family. Such an order would also eliminate child snatching and kidnapping by a non-custodial parent.

Allowances should also be made by the court to hold child support money in escrowin cases of non-compliance of visitation or joint custody. Both parents should be required to support their children according to their ability whether there is joint or sole custody. The main consideration should be the best interest of the child(ren) and not the social or economic situation of one or the other parent at the time of the divorce.

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AUDIT OF STATE PROGRAMS AND IMPOSITION OF PENALTY

Historically there has been little deterrent for states not to attain full compliance with the present child support enforcement program under IV-D. Although annual audits are presently required by the Secretary, it has been documented that many states have consistently failed to meet specified requirements. Legislation has periodically been enacted to suspend any suggestion of disciplinary action. The common assumption being that to impose the present 5% penalty would be "punitive" and therefore, there has been a strong reluctance to take any corrective action. With this ineffective attitude, states will continue to be confident in their show of resistance.

Information regarding states that are not in full compliance with the Federal IV-D program is not available. These states are not totally dependent on federal funds to supplement their child support enforcement programs. An overwhelming majority of non-AFDC cases in these states receive services under total state-funded programs. For example, only 3,226 non-AFDC cases of Virginia's estimated 50,000 non-AFDC cases were processed under the IV-D program (see 7th annual report of OCSE). As you can see, the Federal government has very little leverage in compelling Virginia and other states to comply with all IV-D requirements.

Proposing to extend the time requirement of the audit from 1 year to 3 years and reducing the penalty to 2%, 3% or 5% will only result in a far less effective program. In order for a penalty to be effective and produce positive results, there has to be no question that it will be imposed, and it has to be sufficiently severe to be an adequate deterrent.

We are not suggesting that the present penalty be raised, only that states not be allowed to continue along their present paths of non-compliance with no fear of being penalized. We are asking that corrective measures begin now, with the hope that it is not too late.

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CASE HISTORY - #63-840-K

Ryder vs. Ryder

Fairfax County Juvenile and Domestic Relations Court

1978: Mr. Ryder signed a consent order to pay child support in the amount of $87.50 per week for the two children aged 1 and 4 yrs. As I was approximately five months pregnant with our third child at that time, no support amount was considered for this unborn child. These payments, to be made through the court, were sporadic. Arrearages began to build from the first year.

1979: The court support order was amended to $100.00 a week for the now three children - an increase of $12.50 per week. Again, these payments were rare...if at all.

1980: Mr. Ryder served at least two 10-day jail sentences for non-support. During this time he was gainfully employed. Attempts were made to make a few payments here and there. I dropped nearly $4000.00 on the past-due child support in order to give Mr. Ryder a chance to stabilize and start making payments on a more regular basis. Between 1980 and 1982, we appeared in court about twenty times over this support issue.

1981: Mr. Ryder served another 10-day jail sentence for non-support. This resulted in receiving a few more payments.

1982: In March of 1982, I was awarded a judgment in the amount of $5700.00 on the support arrearages. As of this date I have been unable to collect anything on this judgment. Mr. Ryder refuses to divulge his place of employment or where he is living.

1983: Child support payments were reduced to $85.00 per week due to Mr. Ryder's "off-and-on again" working habits. However, since I have become involved in VOICES this year, I have collected over $2600.00 in support arrearages. So far, payments seemto be fairly steady. I credit this to an increase in knowledge through the VOICES group, and the ability to handle my case more intelligently in Court.

It has provided avenues I was never aware of, and opened doors to a keener insight of this growing social problem. Through my experience, and the knowledge of the experiences of others in my position, I hope to be able to help and educate other custodial parents who need advice on how to proceed in the support court.

Mary R. Ryder

Mary R. Ryder 12/14/83

Case History of Ruth E. (Betty) Murphy

After 4 years of sporadic payments, child support came to a complete halt in August, 1981. I attribute this cessation to the fact that I had remarried. In many cases the absent parent assumes that the step-parent will take over all responsibilities, including financial.

Because of a 5 month delay in docketing my URESA case, my ex had the opportunity to abscond to another jurisdiction. As a result the case was dismissed.

In March I consulted with an attorney, who advised that his initial fee would be $1,000.00. It was then that I decided to represent myself.

By April I had located my ex with the help of a dedicated state employee. At my first hearing in June, I was granted 2 judgements totalling $3,700.00. After filing garnishments, child support was current for the first time since early 1978. The month of June also brought the first and only voluntary child support payment ever received by Fairfax County in my case.

A petition for reduction in child support was filed by my ex in July. Strategy dictated that I counterfile for a moderate increase to protect the present amount. I also filed for another judgement for accrued arrears from a previous order. The Court reduced child support to $250.00, denied the increase and gave him 22 months to pay the arrearages. The saving grace in this decision was a stipulation that if 1 payment was missed, there would be an automatic judgement and support would revert back to $300.00.

Unhappy with the outcome, my ex appealed the decision. He wanted the support lowered to $1[illegible]0.00 per month for 3 children, which equated to less than 1 dollar a day per child. No payments were received in Sept. or Oct. In accordance with the aforementioned stipulation, I was granted a judgement.

In attempting to file a garnishment action, I experienced problems with General District Court. After citing the state code applicable in child support appeal cases, the Judge released the "hold" which had inadvertantly been put on my garnishment.

The appeal case was heard in Nov. and resulted in a stay of the original child support award of $300.00 per month. As a result of his erractic behavior in court, visitation rights were severely reduced.

In Jan. 1983 I received 2 garnishment checks. Then nothing. By accident I discovered that my ex had taken leave without pay. This negated any further deductions for support until he returned to work. Apparently employers are under no obligation to notify the obligee of any adverse circumstances. By chance I learned he had received full benefit of his last paycheck which was for a partial pay period of 16 hours. The federal government informed me that their computer was not programmed to deduct from partial paychecks. I notified the U.S. Corps of Engineers that I was holding them liable for the monies not deducted.

He did not return to his job, but resigned. Available vacation funds made it possible for the federal government to correct their mistake.

Another judgement was granted in Feb. I was advised that I could file against his Federal Retirement Benefits. Again I was met with unfounded resistance from General District Court, and again I was able to overcome this through self-acquired knowledge of my rights.

I reopened my State Parent Locator file in June. In November I was told that they had reached a "dead end". Information supplied by both State and Federal Parent Locator Services was:

1976	telephone number - disconnected the same year
1981	Social Security Info - Federal employee paid through Omaha, Nebraska
1982	IRS info provided an address in Mobile, Ala.
1983	Employment Info - held 1 temporary job in Mobile, Ala. in April, 1983

All of the above information, except the employment information had been supplied by me on the original locate request.

I now have a fifth judgement of arrears. The 3 outstanding judgements total over $3,500.00. Lack of access to existing resources with current locating data is one of our main obstacles.

My 3 children have now been adopted by my present husband. Along with the dissolution of future child support obligations, my ex-spouse has been divested of all parental rights as a result of the abandonment of his children.

Senator **Packwood**. Let me say I have no questions of this panel. If I were to stay at this hearing, I would have some questions later on. This is a subject I am long familiar with.

Ms. **Welch**. Can I ask one thing that really none of us hit on?

Senator **Packwood**. Go ahead.

Ms. **Kelly**. The key here is money—OK?—which none of us really hit on, but it is money. Cutting funds would be disastrous. Some States will not support the program if there aren't adequate funds. We have caseloads in Michigan, which has one of the best collection rates in the country and has one of the oldest systems. But we have caseloads where non-AFDC workers are handling 3,000 and 4,000 cases, where AFDC workers are only handling 2,000 cases. If funds are cut even worse, it is going to be disastrous. So, please——

Senator **Packwood**. Let me say this. You are riding the crest. I think we are going to do all right. However, every witness that appears says, "The only problem is money." I don't mean just on this issue; they can be talking about the space program or national defense or aid to Central America, and they will say, "the only problem is money." Take my word for it, you are in a pretty good position, and I think you are going to get a priority over some other people who also say that the only problem is money. Sometimes I think there are other problems, but in this case you are right.

Go right ahead.

Ms. **Welch**. Senator, I would like to say that there has been a disastrous result on our children by the nonpayment of child support, other than the obvious economic abuse which we consider child abuse. The children have felt a let down, a disappointment in the system. They do not understand why a system doesn't work.

It worries me terribly that children in the United States whose mothers continually have to go to court will begin to believe that there is no validity in the court system or in our congressional system.

When we had a wage-assignment bill passed in the State of Virginia, the Governor, Charles Robb, was kind enough to invite my children to the signing. And I was able to turn to them and say, "You see, once government knows, it responds. The systems care about you; both your government and your courts do care."

It worries me terribly. I think the fallout to the kids is not just economic—the economy is awful—but the feeling that Government doesn't care and that systems don't work is a very, very harmful and dangerous byproduct of this whole issue.

Senator **Packwood**. I couldn't agree more.

Ms. **Welch**. Thank you.

Senator **Packwood**. Thank you very much for coming. I appreciate it.

Now we will move on to a panel of Lawrence R. Young, the chief counsel of the Family Law Section for the Attorney General of Oregon; Clifton H. Duke, the assistant attorney general of North Carolina; those two, if we might. With Mr. Young are Jim Hunter, the administrator for support enforcement, and Leonard Sytsma, the director of the child support enforcement program, Salem, Oreg.

Gentlemen, why don't you go ahead in the order you are on the panel. We will start with Mr. Young.

STATEMENT OF LAWRENCE R. YOUNG, CHIEF COUNSEL, FAMILY LAW SECTION, OFFICE OF THE ATTORNEY GENERAL OF OREGON

Mr. Young. Thank you, Senator Packwood.

We appreciate the opportunity of being invited to testify before you today.

I think all of us here today share the common goal of breaking the bonds of dependency that President Reagan spoke about last night. The people who just testified told you about very real problems that are people-problems, and one of the points that we would like to make today is that those kinds of problems cannot be addressed if the level of Federal funding is reduced. We are not here to argue for increased funding; we are here to argue that you should hold the line.

If you assume that State funding is not going to be reduced, the proposed change in the match rate levels from 70 to 65 percent is not a minor adjustment in the program. That change will ultimately result in a drop of 14.3 percent in total program funding, assuming State funding remains constant. The Federal Government is not merely saving 5 percent, because by the time you crank the money through the match rate formula, a 5-percent drop in the match rate level results in a 20.4 percent drop in Federal expenditures.

This is not the first time a change has been proposed in a Federal funding match. This was done previously when the program was dropped from 75 percent to 70 percent, effective Oct. 1982.

Between Federal fiscal year 1982, when the match rate was 75%, and Federal fiscal year 1983, when the match rate was 70 percent, we found in Oregon that collections dropped by $9.5 million. And the IV–D expenditures dropped between those 2 years by $2 million.

Senator Packwood. Run through those figures again, in that sentence.

Mr. Young. All right. The reduction in collections between Federal fiscal year 1982 and 1983 was $9,454,000. And for the same period of time, the total IV–D expenditures dropped by $2,029,000. So a change in the match rate level does work to reduce overall program expenditures, and that works even more to reduce overall collections.

Now, there are other factors at work. We are not saying that the total drop in collections or in expenditures was solely because of the change in the Federal match rate, but it certainly was a significant reason for it.

If the match rate is reduced, then whatever incentive proposal that the committee passes and Congress adopts, and whatever new enforcement tools you either mandate or encourage states to adopt, aren't going to be able to accomplish the purpose of collecting child support or breaking those bonds of dependency. The legislation is going to be raising the levels of expectation of custodial parents across America and at the same time undermining the ability of the child support program to fulfill those expectations.

There is another area where Federal funding becomes very critical, and that is in the area of incentives. Under the administration bill, S. 1691, the entitlement right to incentives is removed from the program; they will be subject to the appropriation process. That is not the case in the House bill. The Senate bill would damage the ability of the program to accomplish its mission.

These are my comments at this particular time.

We have submitted detailed written comments addressing some of the technical problems in the bill.

Senator PACKWOOD. Mr. Duke?

[Mr. Young's prepared statement follows:]

SENATE FINANCE COMMITTEE
Hearing on Child Support Enforcement
Program Reform Proposals
January 26, 1984

Testimony of
DAVE FROHNMAYER
Attorney General
State of Oregon

Presented by: LAWRENCE R. YOUNG
Chief Counsel
Family Law Section
Oregon Department of Justice

with

JIM HUNTER
Administrator
Support Enforcement Division
Oregon Department of Justice

and with

LEONARD T. SYTSMA
Oregon IV-D Director and
Assistant Administrator
Adult and Family Services Division
Oregon Department of Human Resources

Chairman Robert J. Dole and Members of the Senate Finance Committee:

I would like to thank Chairman Dole and the members of the Senate Finance Committee for this opportunity to present testimony on child and spousal support legislation currently before the Committee. I strongly endorse federal efforts to increase both the ability and effectiveness of state support enforcement programs, and especially the effort to encourage greater enforcement efforts for those families who are not receiving Aid For Dependent Children (AFDC). The state of Oregon, which has traditionally been a national leader in the child support enforcement field, strongly supports passage of the concepts contained in H.R. 4325. However, I am submitting detailed testimony suggesting technical amendments which would, in my opinion, make the bill stronger and more useful to the states.

These comments will focus primarily on H.R. 4325, which encompasses nearly all the major elements of the various proposals now before the Senate. Accordingly, I recommend that H.R. 4325 be the vehicle for all related child support enforcement program amendments proposed by the various bills. The page and line references in this testimony refer to H.R. 4325 as printed in the Senate on November 16, 1983.

I. INTERCEPT OF STATE INCOME TAX REFUNDS (page 4, line 11 to page 5, line 12)

Equitable access to this effective enforcement tool for all custodial parents who are owed child support, regardless of economic status, is long overdue. The IV-D program must be strengthened in this regard in order to provide a truly effective response to the very real economic hardship on all children and custodial parents who suffer from the unacceptably high incidence of nonsupport.

H.R. 4325 mandates procedures for the interception of state income tax refunds to satisfy AFDC-related child support obligations. The language would permit, at state option, participation by non-AFDC obligees. The proposed paragraph (23) contained in section 504(a) of S. 888 would essentially mandate similar procedures, including participation in state offset programs by non-AFDC obligees. There are two technical problems:

A. Reductions Based on Other Jurisdictions' Orders (page 4, lines 11-24 through page 5, lines 1-2). The bill would require states to reduce taxes to enforce support orders of other jurisdictions. While a very good idea in theory, there are operational difficulties. If state A were to reduce the refund of an obligor based solely on the support order of state B, the following problems could arise:

(1) In some cases, the obligor would say state B had no jurisdiction over him or her when the support order was entered; that the order was therefore void and that any reduction by state A was illegal. A court battle would ensue. Federal legislation cannot cure this problem.

(2) Much more frequently, the obligor would contest the amount owed under state B's order. At a minimum, state A would

have to hold a judicial or administrative hearing to determine the amount owed, and the obligee would need to be represented. Claims of erroneous arrearages would be very common, causing unnecessary workload increases and delays in the proceedings. Federal legislation cannot cure this problem either.

Currently, most states that do reduce income tax refunds do so based upon a "setoff" theory, i.e., state A is owed child support by the obligor and the obligor is owed a tax refund by state A. State A simply offsets one debt against the other. Interstate reductions cannot be achieved in such states because the obligee has assigned the support rights to state B, and state A is not owed any debt by the obligor. The following changes would cure the problems mentioned above, by requiring that the state which is to reduce the refund have its own effective support order which obligates the obligor to pay, and by permitting the assignment of support rights to be to any state, not just the state which is reducing the refund:

On page 4, lines 13 and 14, strike out "a support order of that or any other jurisdiction" and insert in lieu thereof "any support order effective in that jurisdiction".

On page 4, line 24, strike out "to the State" and insert in lieu thereof "to any State".

On page 5, line 1, after "402(a)(26)" add "provided the State agency has received notice of such assignment consistent with regulations of the Secretary,".

These changes would require that there be an effective order of support in the state reducing the refund, but such orders could be established using RURESA petitions or the RURESA registration process.

B. Tax Refund Reduction Notice (page 4, lines 17 through 22). Lines 17 through 19 require notice to the individual of the proposed reduction in the refund and the procedures to follow to contest the reduction, while lines 19 through 21 require full compliance with all procedural due process requirements of the state. This language is essentially duplicative. The states should be given the freedom to design their own systems in accordance with state procedural due process requirements. Therefore, we recommend that that portion of the notice language found on lines 17 through 19 be struck and that that portion found on lines 19 through 21 requiring compliance with state due process requirements be retained. This would assure proper notice to the individual taxpayer.

II. SECURITY BOND (page 5, line 20 to page 6, line 3)

Paragraph (25)(c), found in section 504(a) of S.888, contains a similar proposal.

A. Requiring a Pattern of Overdue Payments (page 5, lines

23 through 25). Traditionally, the imposition of a bond or other security has been at the discretion of the judiciary. The language in the bill requiring that an individual have a demonstrated pattern of overdue support payments before a security or bond can be required is a needless restraint on the discretion of the judiciary and administrative hearings officers. Most importantly, there may be situations where imposition of such a bond is appropriate at the time a support order is first entered, i.e., cases where the obligor has stated under oath that he or she will never pay child support. Therefore, we recommend that the committee strike the language requiring that there be a pattern of overdue support payments, thus leaving the decision to the discretion of the judge or hearings officer.

B. Security or Bond -- Notice (page 5, line 25 through page 6, line 3). A problem exists regarding notice which is similar to the concern mentioned in the income tax refund section (comment I.B. above). The language in page 5, line 25 to page 6, line 3 relating to the requirement of notice and procedures to contest the imposition of a bond should be struck, while the language on page 6, lines 2 and 3 requiring full compliance with state due process requirements should be retained. This language would assure proper notice to the individual.

III. CONSUMER CREDIT REPORTING (page 6, lines 4 through 22)

Paragraph (5), found in section 5(b) of S. 1708, contains a similar proposal.

A. The Notice Requirement (page 6, lines 15 through 17). While it is desirable to give notice to an obligor regarding the possibility of credit bureau reporting, the particular procedure in H.R. 4325 requiring both notice to the obligor and an opportunity to contest accuracy will inhibit the effectiveness of the credit reporting procedure. The time it will take to give notice and otherwise comply will be such that credit bureaus either will not wait for the response or will hold up transactions for commercially unreasonable periods of time. Suggested below is language that would require: (1) that the obligor be notified that such information will be reported upon the request of a credit bureau, and that the obligor is free to inspect at any time and to contest the accuracy of the information to be reported; and (2) that the obligor be notified when the enforcement agency has responded to such a request. States could give obligated parents the first notice on a regular basis, perhaps once every other year. The state would then be able to respond promptly to credit bureau requests for information.

On page 6, line 15, strike out "of the proposed" and insert in lieu thereof "that such reports will be made upon request; that the obligated parents may inspect such information and contest the accuracy of it at any time, with information on how to contest such accuracy; and that the obligated parent will be notified promptly that such a request was received and a report was issued".

Strike out line 16.

In line 17, strike out "the accuracy of such information".

IV. PAYMENTS OF SUPPORT THROUGH STATE AGENCY OR OTHER ENTITY

(Page 6, line 23 to page 7, line 10)

A. Fees for Payment Processing and Accounting (page 7, lines 6 through 10). This provision mandates an annual fee for handling and processing payments, not to exceed costs or $25, whichever is less, to be collected from the requesting parent regardless of whether any support is paid. As written, the fee language is very objectionable. There are the following problems:

(1) The burden of the fee will fall primarily on non-AFDC women who are not receiving regular support payments. Because it is necessary to have an accurate record of how much is owed in order to enforce a support order, they are more likely to be the "requesting parent." They have less ability to pay and the fee must be paid regardless of whether any support is collected.

(2) The language removes the states' ability to design other systems that could be user fee supported.

(3) Capping the fee at $25 does not ensure that the custodial parent will be able to afford it. In addition, most states will not be able to recover all costs unless they do not send bills. The sending of bills increases the likelihood that support will be paid by the noncustodial parent.

(4) In states where all support orders must be paid, by law, through a central clearinghouse, the fees will largely be uncollected, and uncollectible. The existence of the fee in such a state would operate to discourage payment through the central clearinghouse, because if and when a support payment was received, all of it would have to be used to pay the past due fees.

The purpose, i.e., to recover the cost of such services, is laudable. However, the states should be left free to decide who pays, how much should be paid, and when the payments should be made. A primary purpose of H.R. 4325 is to assure that assistance in obtaining support will be available to all children, regardless of the ability of the custodial parent to pay for such assistance. This fee provision runs directly counter to that purpose. The following amendment would permit cost recovery while assuring provision of services to those most in need:

On page 7, line 6, after "but" strike out the rest of the line and insert in lieu thereof, "the State shall attempt to recover some or all of the costs for handling and processing such payments." Strike out lines 7 through 10.

V. WAGE WITHHOLDING (page 7, line 11 through page 14, line 4)

Withholding of child support obligations from income is treated in H.R. 4325, S. 888, S. 1691 and S. 1708. The following recommendations for revision of H.R. 4325 constitute our preference for any legislation on this subject:

A. Application of Withholding Provisions (page 7, line 16). This section specifies that the withholding provisions apply only to wages. However, in paragraph (8)(page 12, lines 8 through 18), states are given the option of making such withholding applicable to other forms of income. Maximum effectiveness of this enforcement tool would be achieved by applying withholding provisions not only to wages, but also to income which is received in lieu of wages. The following changes would accomplish this increased effectiveness:

On page 7, line 16, after "wages" add ", or income received in lieu of wages,".

On page 10, line 14, after "wages" add ",or income received in lieu of wages,".

On page 11, line 4, after "wages," add "or income received in lieu of wages,".

On page 11, line 18, after "wages" add "or income received in lieu of wages,".

On page 12, line 23, after "wages" add "or income received in lieu of wages".

On page 12, line 9, strike out "wage" and insert in lieu thereof "income".

On page 12, line 11, after "wages" add "or income received in lieu of wages".

B. "Mandatory" Income Withholding (page 7, lines 16-17). While the concept of mandatory withholding is sound, there are occasional cases where more effective payment arrangements can be made with the obligor on the condition that there be no income withholding. The states should be free to pursue such alternatives. However, in order to assure that any exception to the mandated withholding does not become a continuing excuse for not imposing withholding, it must be severely limited. The following would give the states some flexibility to maximize enforcement opportunities:

On page 7, line 17, after "withheld," add "except as provided in paragraph (11) and".

On page 13, line 13, strike out "and" at the end of paragraph (9).

In line 15, strike out the period at the end of paragraph (10) and insert in lieu thereof "; and".

After line 15, add the following new paragraph:

> "(11) such withholding may be stayed by order of the court or other entity which issued the support order involved if other, superior, payment arrangements can be demonstrated to such court or other entity."

C. Requirement of No Court Action (page 8, lines 11 through 14). One of the problems which the legislation attempts to remedy is that of widely varying discretionary enforcement of support orders by judges. This is the basis of the proposed requirement that withholding be imposed without further action by the court or other entity which issued it. Oregon courts have no discretion, as demonstrated by both statutory and case law, to refuse to order income withholding upon request. The language of H.R. 4325 would require substantial changes in the way Oregon enforces support orders with no improvement in overall collection practices. The following amendment would permit Oregon, and many other states with similar statutes, to be in compliance without affecting the thrust of the provision, i.e., to limit discretionary enforcement by judges:

On page 8, line 13, after "further" insert "discretionary".

D. One Month Arrears "Trigger" (page 8, line 23). The proposed requirement that a wage withholding order be issued if the arrears are equal to the support payable for one month is unrealistic and will cause substantial administrative problems, especially in those cases where the payment is one day late. A two-month arrearage threshold would prevent unnecessary actions against people who are a day late in making their payment, while still ensuring that the obligee does not have to do without support for a long period. Individual states also would retain the option to impose the withholding system earlier. The following modification is recommended:

On page 8, line 23, strike out "one" and insert in lieu thereof "two".

E. Advance Notice of Withholding (page 9, line 23). The states would be required to give "advance notice" of proposed withholding, but H.R. 4325 does not specify what kind of notice. In order to leave states with the maximum discretion while ensuring advance notice, the following should be adopted:

On page 9, line 23, after "notice" add "(as required by procedural due process requirements of the state)".

F. Priority of Support Obligation Over Other Debts (page 12, lines 4-7). This "priority" provision seemingly would make the collection of support obligations superior to state tax warrants and similar priority matters. A more significant problem is that the language also appears to make child support superior to prior liens and other prior claims. In order to avert compromising the recording system in general and title company records in particular, the following should be adopted:

On page 12, line 6, after "other" add "subsequent".

G. Withholding Based on Another State's Order (page 13, lines 1-2). We have serious concerns about income withholding based upon support orders issued in other states. The law could be interpreted by DHHS to require withholding without having a support order in the state doing the withholding. The operational difficulties in implementing this provision are severe, for the reasons previously stated in section I.A. of this testimony. The bottom line here is that the states would be required to give full faith and credit to current support orders of other states, which is a substantial departure from the constitutional concept of full faith and credit. The problems of figuring arrearages and handling the multiplicity of litigation engendered by this provision could be avoided by requiring that there be an effective support order in the state which is to administer the withholding process, as follows:

On page 13, line 2, after "and" add "registered or otherwise confirmed in the state where such withholding will occur, and".

H. Method of Withholding (page 13, lines 16 through 23). There is more than one way to have mandatory income withholding. The language in this bill actually determines which specific method of withholding will be used. States should be allowed the flexibility to decide which system of mandatory withholding to implement. No matter how mandatory you make a withholding process, there is no such thing as "automatic" withholding. Someone must send the advance notice to the employe, and someone must cause the employer to be served with the notice of withholding. The states would be given maximum flexibility to design mandatory withholding systems, while still ensuring that such a mandated system is operational, by the following:

On page 13, strike out lines 16-23.

VI. FUNDING (page 16, line 9 through page 24, line 8)

The problems of everchanging federal financial participation are the most significant issues to most states now developing or improving their child support programs. If federal financial participation is reduced significantly, child support enforcement efforts in many jurisdictions likely will revert to levels only slightly above pre-1975 status.

Oregon has carefully reviewed the various proposals for revising the funding framework of child support enforcement. We are especially pleased that H.R. 4325 stabilizes the basic federal financial participation at the present 70 percent level. Conversely, after enduring the disruption, trauma and reduced collections occasioned by the reduction in federal match level from 75 to 70 percent in FFY 1983, we were dismayed by the proposal for further FFP reduction contained in S. 1691.

Each of the bills also contain provisions regarding the incentive funding which cause us grave concern. We have concluded that the incentive scheme set forth in H.R. 4325 is the least onerous among the various proposals and thus prefer its provisions to the proposals in S. 1691 and S. 1708. We found the incentive plan in S. 1708 to be particularly complex and confusing. Our concerns about the incentive plan in H.R. 4325 are detailed below, along with our suggested revision of the formula.

The incentive proposal in H.R. 4325 does three things, at least in Oregon. First, it increases the funding for non-AFDC enforcement. That is long-overdue good news. Second, it unfortunately results in a shift of incentive money away from the AFDC portion of the IV-D program. This will result either in reduced

AFDC enforcement efforts or the state having to come up with more money. Third, it reduces, at least in Oregon, the total incentive monies received by the state. In Oregon, the total incentive is reduced from 12 percent to 9 percent. This is in addition to the previous reduction in incentives from 15 percent to 12 percent that became effective in FFY 1983.

Possible alternatives to the proposed incentive structure contained in H.R. 4325 include increasing the 4 percent floor to some higher percentage, increasing the cap on non-AFDC dollars or increasing the paternity cost exemption. We feel that any of these changes would more realistically furnish the incentive necessary for the states to implement and maintain the reform measures required by the pending legislation.

We believe that Oregon provides basically all of the services required in the various reform measures. However, our "mature" program operates very near to a 1:1 ratio of AFDC collections to total IV-D costs (although when total collections of AFDC plus private cases are considered, our "true" cost benefit is nearly 3 to 1). In recent years we have twice exceeded the 1:1 ratio of IV-D costs to AFDC collections because of extraordinary infusions of revenue from the IRS intercept program. However, our more recent experience indicates that the IRS intercept program, along with our various state offset programs, is a declining resource. Thus, we anticipate that Oregon's "cost benefit" ratio (as defined in the bill's calculation) will dip below the 1:1 level, rather than exceed it.

We fully expect that almost all other states with mature programs will have similar experiences.

In order to minimize serious funding cuts to the AFDC enforcement program, while encouraging those programs to become more efficient, we propose the following modifications to the incentive formula contemplated by H.R. 4325:

Cost Benefit Ratio (Expenditures to AFDC Collections)	Incentive
Less than or equal to 1 to .7	4%
1 to .8	4.5%
1 to .9	5%
1 to 1	5.5%
1 to 1.1	6%
1 to 1.2	6.5%
1 to 1.3	7%
1 to 1.4	7.5%
1 to 1.5	8%
1 to 1.6	8.5%
1 to 1.7	9%
1 to 1.8	9.5%
1 to 1.9	10%

At a minimum, the present gap between 4 percent incentives (less than a 1 to 1 cost benefit ratio) and 5 percent incentives (a 1 to 1 or better cost benefit ratio) should be structured to allow the states with mature programs to receive progressive incentives even if their cost benefit ratios are below 1 to 1.

Another method of minimizing funding cuts to AFDC support enforcement efforts would involve excluding all AFDC paternity costs from the AFDC side of the cost benefit ratio. H.R. 4325 provides that blood test costs may, at state option, be excluded from administrative costs in calculating incentives (page 18, lines 22 through 25). Such costs are a drop in the bucket compared to other costs (such as staff time) inurred in an effective paternity program. If there is serious commitment to paternity establishment, then all paternity costs should be excluded from the AFDC portion of the cost benefit ratio, subject to a reasonable cap on paternity costs as a percentage amount of total IV-D expenditures. In Oregon, over 35 percent of AFDC enforcement case referrals require paternity establishment. We estimate that about 18 percent of support enforcement expenditures are related to paternity. This translates to about 9 percent of the overall IV-D program costs in our state. Adoption of this exclusion would act as an incentive for support enforcement programs to establish paternity.

VII. PROGRAM AUDITING (page 22, line 17 through page 24, line 8)

Auditing for program effectiveness as opposed to program compliance changes the focus of child support enforcement for the states. H.R. 4325 proposes an audit cycle of three years, with which we agree, and establishes a more feasible penalty for program failure. This concept of effectiveness also is discernable in S. 1691 and S. 1708 in various forms.

In order for the states to develop the necessary ability to respond to this change, we suggest that the implementation of performance audits, if adopted, be scheduled to start in FFY 1986 or later.

VIII. FOSTER CARE (page 25, line 9 through page 28, line 7)

Language relating to the enforcement of foster care (IV-E) cases is found in both H.R. 4325 and S. 1691.

A. Incentives for Foster Care Collections (page 27, line 24 through page 28, line 4). The foster care "assignment" language underlines the fact that assignments of support rights do not come automatically under 42 USC § 602(a)(26) in foster care cases. Accordingly, the state will not get "credit" on the AFDC portion of the incentive formula for foster care collections. The following amendment remedies that problem:

On page 17, line 7, after "402(a)(26)" add "or collected on behalf of a child receiving foster care maintenance payments."

B. Discharge in Bankruptcy (page 27, after line 16). The bill does not make foster care child support obligations exempt from discharge. The following cures the problem:

On page 27, after line 16, add:

"(3) In section 456(b), after 'title' insert 'or as a result of receipt of foster care maintenance payments under Part E.'"

IX. ANNUAL REPORT BY THE HHS SECRETARY (page 28, line 15 through page 33, line 24)

Both H.R. 4325 and S. 1691 propose to change the Secretary's annual report. We recognize the value of such statistics in answering legitimate questions about the level and status of child support compliance at the state and national levels. However, we are concerned that a further purpose of requiring such information now is to establish the basis for the more complicated "performance-based" funding proposal as reflected in S. 1691 and S. 1708. The eventual "measure" of state effectiveness under such schemes will be "who paid what every month" and monies will be distributed on that basis. If an obligor is one day late with a payment, the state would not have a "perfect payment record," and the state's funding would be reduced accordingly, even though the obligor is current on the support obligation. We are adamantly opposed to such an approach.

We recommend reducing the reporting burden by making the following change:

In subsection (b), page 29, line 14, strike out "months" and insert in lieu thereof "quarters".

There is no reporting requirement for dollars collected for foster care under Part E.

X. MEDICAL INSURANCE (page 40, lines 3 through 15)

Medical insurance requirements are found in H.R. 4325, S. 888 and S. 1708.

Requiring health care coverage is a very good idea. Unfortunately, in cases where the obligor must pay all or part of medical insurance costs, it will result in lower child support orders because judges will take the insurance costs into account when setting support obligations. That, in turn, will result in lower incentives, and hence reduce program dollars received by the states. In order to avoid such conflict and give the states a financial incentive to obtain such orders, additional money for this activity should be provided to offset the loss of dollars from child support collections. One way to accomplish this would be to provide additional incentives when a state obtains medical coverage provisions in a certain percentage of its orders. For example:

% Orders w/Medical Coverage	% Additional Incentive
25	.5%
50	1.00%
75	1.50%
100	2.00%

Another alternative would be to establish a dollar value of obtaining medical coverage in support orders and include that value as part of collection totals. The Oregon Title XIX agency already develops cost figures on how much it spends per month per case on medical costs. Since inclusion of medical insurance coverage on an order would save that amount, the savings could be treated as a "collection" on that order for each month the insurance coverage was in effect.

XI. EXTENSION OF TITLE XIX MEDICAL COVERAGE (page 41, line 1 through 17)

The bill provides for the extension of the Title XIX medical coverage for a period of four months after a family's ADC grant closes. This proposal will create a significant fiscal impact in the states. State funds are simply not available for this increased cost. States already have the option of establishing medically needy programs.

XII. CLEARINGHOUSE FOR CHILD SUPPORT PAYMENTS

S. 888 requires that states establish a clearinghouse for the receipting, distribution and accounting of child support payments. The other child support reform measures, including H.R. 4325, would allow the clearinghouse concept to be implemented, but do not include specific requirements of this type. The clearinghouse concept as described in S. 888 is a key to the efficient operation of any state program. Establishment of a clearinghouse in each state will, of course, better enable the states to comply with the reporting requirements found elsewhere in the pending legislation for the Secretary's annual report to Congress.

Clearinghouses are expensive to design and develop, and they take substantial resources to maintain. It is essential that if Congress is going to mandate adoption of the clearinghouse concept by the states, it should assist in paying for implementation and operation. Accordingly, the grant authority contained in S. 1708 and S. 1691 should be included in any mandated program.

STATEMENT OF CLIFTON H. DUKE, ASSISTANT ATTORNEY GENERAL, NORTH CAROLINA DEPARTMENT OF JUSTICE, RALEIGH, N.C.

Mr. DUKE. Thank you, Senator Packwood.

The North Carolina child support enforcement program is pleased to have this opportunity and can see that Congress is very serious about improving the enforcement tools that are available to collect child support. We strongly support the concepts in H.R. 4325. We have experience with most of the required state practices in one form or another; they will help, as will the non-AFDC incentive structure. That has never been in place before and is undoubtedly, one reason the historical emphasis of this program has been on AFDC collections as opposed to non-AFDC. We sincerely desire to shift our emphasis more and more into this field and endorse non-AFDC incentives as a means to bring this about.

We do, however, want to raise two specific concerns that are not quite addressed in this legislation, which we feel impact on the nonwelfare family. In this era of scarce resources, in order to implement IV-D services it becomes necessary to adopt some mechanism for recovering the costs of the services.

First, we have a concern about the interstate situation.

Section 6 and section 7 of H.R. 4325 do recognize and lend some impetus to the interstate collection effort. But we are concerned that at present several states, pressed by scarce resources, have begun to seek to recover costs by making deductions from the amount of support collected. The Federal Office of Child Support Enforcement has approved this. In our legal analysis, that is at odds with the present language of title IV, part D. North Carolina does not seek to recover costs in interstate cases and therefore we don't urge its adoption, but if that is wise policy and if States need that additional incentive, we believe that the law should expressly authorize it and provide some standards by which that cost recovery will be administered. This is necessary so that a State doesn't take too much out of a support check that is needed in another state to keep that family off of AFDC or does not discourage the use of interstate process.

Finally, one point of concern regarding recovery of costs in providing services to our resident non-AFDC clients. We have made the statutory election not to recover costs if we are in essence helping collect a current support obligation while at the same time seeking to recover an AFDC arrearage, because that family was formerly on AFDC and is now off.

We felt, as the Federal administrators have interpreted, that the present law caused an election between direct recovery from the absent parent and recovery from the amount of support collected. The latter, unfortunately, is the only consistent means to recover costs, because local judges are reluctant to make those awards. However, we regard that as indirect recovery from the absent parent, and we would like to see the language made slightly more flexible so that in appropriate cases we can collect directly from the absent parent to supplement the deductions made from the support collected for the non-AFDC family.

Senator **Packwood**. Oh, I think those are both very good suggestions.

For all of you who have submitted your testimony ahead of time, I have had a chance to brief myself on it. I have not read it fully, but it helps to have it ahead of time, and I read your suggestions before and thought they were very good.

Mr. **Duke**. Thank you.

Senator **Packwood**. Fellows, thank you very much for coming; we appreciate it.

Mr. **Young**. Thank you, Senator.

(Mr. Duke's prepared statement follows:]

VIEWS OF THE
NORTH CAROLINA CHILD SUPPORT ENFORCEMENT PROGRAM
REGARDING H.R. 4325 AND RELATED CONCERNS

Clifton H. Duke

Assistant Attorney General

STATEMENT OF TESTIMONY

Introduction

Mr. Clifton H. Duke is appearing before the Senate Finance Committee on behalf of the North Carolina Child Support Enforcement Program, to express its views regarding H.R. 4325 and related concerns arising from the cost recovery provisions of the present law. Mr. Duke is an Assistant Attorney General with the North Carolina Department of Justice, representing the State IV-D Agency within the North Carolina Department of Human Resources.

Views Regarding H.R. 4325

North Carolina commends the unanimous display of resolve to strengthen the nation's child support enforcement system reflected in H.R. 4325, the Child Support Enforcement Amendments of 1983. A classic illustration of the federal experiment at work, this legislation will enhance the cost effective delivery of equal child support collection services in two ways.

First, it requires that all remaining states adopt virtually every "field-tested" innovative technique developed by certain states except advanced paternity blood testing. North Carolina, for example, was the second state to adopt a state income tax refund offset mechanism for collecting past-due support for IV-D AFDC cases. The principal impact of this aspect of H.R. 4325 will be to require amendments to our wage withholding procedures, which were progressive when first adopted in 1977.

The second major aspect of this legislation represents a welcome commitment by Congress to achieving the statutory goal of child support program services equally available to non-AFDC families. Restructuring the financing provisions to authorize performance-based incentive payments on non-AFDC collections on an equal basis with AFDC collections would be an encouraging development for North Carolina, which is now making a conscientious effort to boost collections for non-AFDC families.

Interstate Cost Recovery Problems

This opportunity to present our views was sought primarily to urge that Congress consider two issues arising under the current authority to recover costs incurred in providing non-AFDC services. 42 U.S.C. §654(6). H.R. 4325 does not address these issues at present.

The first concern deals with a brewing threat to the already fragile underpinnings of interstate support enforcement activieies. In the past year, with the approval of the federal Office of Child Support Enforcement, several states have begun to recover the costs of providing responding state services in IV-D non-AFDC interstate cases.

Initially, Arkansas and Oklahoma sought to obtain applications for IV-D services from the non-AFDC clients of other state IV-D agencies, including North Carolina. Responding to our objection, OCSE paradoxically disallowed the application requirement but approved their plan to defray the costs incurred in responding jurisdiction URESA activities through deductions from the amount of support collected.

This position may have encouraged Texas to amend its URESA statute to allow for cost recovery in non-AFDC cases by deducting up to 25% from each payment received, with a "ceiling" deduction amount of $500.00. Texas Family Code Ann. §21.29. In addition, just last month our State IV-D Agency received notification that Salt Lake County, Utah has begun to charge a 5% fee for enforcement of all non-AFDC URESA cases.

Our understanding of the federal law currently governing the IV-D Program is that an application fee may be charged and incurred costs may be recovered in interstate cases only when a IV-D agency provides a resident non-AFDC client the services necessary for initiating URESA support proceedings.

This view is grounded in the interpretation that 42 U.S.C. §651, *et seq.* , addresses the relationship between a particular State IV-D Agency and its citizens, rather than the Agency's relationship with another state's citizens, to whom it owes the duty of cooperating with that state's IV-D agency in securing support if the case was initiated with IV-D assistance. Any proposal to defray the expense of responding jurisdiction URESA activities through a second tier of fees and cost recovery, as Oklahoma and Arkansas earlier proposed, or through cost recovery deductions as Texas and Utah now propose, seems impermissible unless the phrase "individual not otherwise eligible" in 42 U.S.C. §654(6) is stretched to encompass not only residents of these states who can obtain IV-D services under their State Plans although not receiving public assistance, but also residents of all other states whose eligibility for IV-D services as AFDC clients of these states is patently nonexistent.

When §654(6) speaks of making the IV-D services established under a particular State Plan "available to any individual not otherwise eligible...upon application filed...with the State", it means that the State must undertake to secure support for a non-AFDC child whose responsible parent resides in a foreign state by "utilizing any reciprocal arrangements adopted with other states", just as it would on behalf of an AFDC child. 42 U.S.C. §654(4)(B). The principle that the right to impose an application fee and recover incurred costs depends upon an application filed with a IV-D agency by the support claimant under §654(6) and 45 C.F.R. §302.33 was initially recognized by Oklahoma and Arkansas, because they sought to obtain such applications directly from the non-AFDC clients of other state IV-D agencies. It appears that at least some Texas prosecutors may seek to apply their new cost recovery provisions not only without an application, but also regardless of whether the foreign state IV-D non-AFDC client gives her permission.

This practice appears to contravene the interstate cooperation provisions of 42 U.S.C. §654(9) and 45 C.F.R. §302.36 and 302.7. The latter regulation, which I believe contains the only express reference to URESA in federal law, provides in part as follows:

> "(a) For all cases referred to the IV-D agency under the State Plan of another State, the IV-D agency must assist the other state in locating an absent parent, establishing paternity, or securing support for a child in the other State." (Emphasis added).

Regarding interstate enforcement cases, then, current federal law seems to allow the initiating state to provide in its State Plan for an application fee and recovery of the costs which are necessarily incurred before a case is referred for responding state assistance. Activities such as location, URESA petition preparation, IV-D attorney and judicial review clearly result in costs incurred in the initiating state. Federal law directs responding states to cooperate and assist in securing support without authorizing them to impose a second tier of either application fees or cost recovery deductions from the support collected, which must be forwarded to the initiating state for distribution to the non-AFDC client.

Federal law is silent regarding the regulatory controls needed to ensure that a dual cost recovery mechanism does not discourage potential applicants needing

IV-D services, 45 C.F.R. §302.33(2), and to resolve complex interstate support distribution and cost recovery questions. Thus federal law now contemplates that for Texas, Utah, Oklahoma and Arkansas, the costs of operating the IV-D Program in an interdependent nation are compensated by the AFDC incentive provisions (and hopefully non-AFDC incentives in the future), Federal Financial Participation in local costs, and the cooperative assistance of other states in keeping some of their own "not otherwise eligible" citizens off public assistance.

A particular concern is that the extensive level of cost recovery permissible under the Texas statute -- a deduction from each payment received of up to 25% and up to the amount of $500.00 -- may very well discourage resort to interstate process by potential IV-D clients who have no realistic legal alternatives. In addition, non-AFDC petitioners have virtually no involvement in the actions taken on their behalf by a responding state prosecutor, and scant basis for evaluating any benefit conferred by such representation unless a periodic accounting of the basis for the incurred cost deductions is required.

Cost recovery in interstate cases may be desirable policy, although a 25% deduction ceiling almost seems designed to discourage non-AFDC families from using the very processes which the IV-D Program was enacted to encourage. If this is desirable policy, federal statutory and regulatory provisions which are nowhere to be found are needed to properly mesh cost recovery deductions by both an initiating state and a responding state in a manner which is equitable for the individual IV-D client and which ensures a proper accounting for the amounts distributed to them.

Until these concerns are addressed by legislation, it seems logically inconsistent for OCSE to concede that federal law does not require an individual who applied for IV-D services in one State to apply for services in a second State, but nevertheless insist that cost recovery by the second state is permissible, when §654(6)(C) of the Act and 45 C.F.R. §302.33(C) clearly authorize recovery only of those costs which exceed any application fee imposed -- which can occur only in the initiating state.

Lessening the Impact of Cost Recovery In Non-AFDC Cases

A second area of concern stems from the need to provide cost-effective program services to non-AFDC families in an era of scarce fiscal resources. Considering the erratic history of federal funding for non-AFDC services and the incentive payments emphasis on AFDC collections, when North Carolina recently sought to improve its non-AFDC efforts it seemed fiscally prudent to require an application fee and authorize the recovery of incurred costs through a 10% deduction from support collected. The current provisions of 42 U.S.C. §654(6)(C) appeared to require an election between this method of cost recovery and direct recovery from the supporting parent, which judges are often reluctant to award.

In theory at least, the following reasons support this choice, which in effect provides for indirect cost recovery from the supporting parent:

(1) trial judges must be informed that costs will be recovered through the 10% deduction, so they can ensure that the family receives the amount of support needed through the setting and enforcement of support awards;

(2) this method provides a financial incentive for working non-AFDC cases effectively, by aligning the interests of the IV-D agency and its non-AFDC clients in seeking the maximum reasonable support award and the fullest possible enforcement; and

(3) in view of equal parental responsibility laws and the federal mandate to provide non-AFDC services regardless of whether costs are recovered,

> this method will more consistently allow for cost recovery in a larger number of cases than direct awards against the supporting parent.

The North Carolina Department of Human Resources is concerned, however, with ensuring that cost recovery does not adversely impact non-AFDC families. We have already chosen not to require either an application fee or cost recovery deductions when AFDC recipients elect continued IV-D services prior to, or within a reasonable time after, termination of AFDC benefits. This exemption applies as long as the IV-D agency is seeking to recover an AFDC arrearage in addition to enforcing the current support obligation for the former AFDC recipient.

This is one method of ensuring that IV-D services are most readily available to families closest to AFDC eligibility. There are at least two ways in which Congress can amend 42 U.S.C. §654(6)(C) to help ensure the cost-effective delivery of non-AFDC services while lessening the impact of cost recovery. First, in appropriate cases the use of both direct and indirect methods of cost recovery should be authorized. The use of both methods in a supplementary manner, with amounts awarded directly against the supporting parent used to defray the on-going deductions from support collected, would further this objective.

A second approach, suggested by the concern that program services be used especially by non-AFDC families closest to AFDC eligibility levels, would be to authorize "targeted" cost recovery. Under such an approach, non-AFDC families meeting a defined income criteria, e.g., 150% of the AFDC eligibility level, could be exempted from the fee and cost recovery provisions generally applicable to non-AFDC families which are in a better position to absorb cost recovery deductions. This may now be possible under the permissive cost recovery authority of §654(6)(C).

Senator **Packwood**. Now we will go with Mary Ann Stein, a member of the Women's Legal Defense Fund; and Ann Kolker, policy analyst for the National Women's Law Center.

STATEMENT OF ANN KOLKER, POLICY ANALYST, NATIONAL WOMEN'S LAW CENTER, WASHINGTON, D.C., ACCOMPANIED BY MARY ANN STEIN OF THE WOMEN'S LEGAL DEFENSE FUND

Ms. **Kolker**. I am Ann Kolker, this is Mary Ann Stein from the Women's Legal Defense Fund, and we are appearing this afternoon on behalf not only of our own organizations but on behalf of the following women's organizations: The American Association of University Women, the Junior Leagues, the Children's Foundation, the Displaced Homemakers Network, Federally Employed Women, the General Federation of Women's Clubs, the Mexican American Women's National Association, the National Conference of Black Lawyers—the section on the Rights of Women—the National Council of Negro Women, the Federation of Business and Professional Women's Clubs, the National Institute for Women of Color, the National Organization for Women, the National Women's Conference Committee, the National Woman's Party, the National Women's Political Caucus, the Older Women's League, the Women's Equity Action League, and Women U.S.A.

We thank you very much for putting child support at the top of your agenda, and we hope that your early attention to this issue will result in a commitment to early action.

I think the single most important thought that we want to convey to you is that H.R. 4325, the bill that the House comprehensive and long-overdue, and it should be passed, is taken as the starting point for action by this committee.

While we think that the House bill is not as strong as it could be, we believe that any reduction in scope from the House-passed legislation would be unacceptable to the groups that we represent.

The centerpiece of the House-passed bill is and must remain the wage-withholding section. As set forth in the House bill, wage withholding would be automatic and could be implemented relatively simply and swiftly. Most of the features of the bill were designed to assure that withholding would be easily available to families when nonpayment occurs.

We would like to draw the committee's attention to the highlights of the wage-withholding section. The provisions insuring timeliness are absolutely essential to establish a pattern of regular payment and to avert the accumulation of large debts which can be devastating to single-parent families.

Thus we support the 1-month arrearage as a fair and workable Federal standard, and we also favor the imposition of a timeframe within which any disputes must be resolved, so that the wage withholding can get started very promptly. We support language that insures prompt distribution of payments, because it is very important not to keep the families waiting once the support payment has been made.

Another aspect of the wage withholding which we consider vital to its effective functioning is the requirement that each State designate or establish a public agency to collect, track, and disburse payments made from wages. The public agency, which we understand could be either a central agency administered by the State or local agencies under State supervision, has several important functions. One of them is the tracking that it provides so that there is little controversy about whether the payment is made.

Additionally, we think the provision in the House bill, which permits either the absent or the custodial parent to use the agency upon request, is absolutely vital. For a yearly fee, either the custodial or absent parent can elect to avail himself or herself of the collection, tracking and disbursement services of the agency. Payment through a neutral or impersonal mechanism helps to keep payment of the support separate from any discord that the parents are experiencing and makes it easier for absent parents to make regular payments. The availability of an official payment record will cut down the resolution time when a delinquency occurs and one parent contests whether payment is made.

Without this agency, the automatic operation of the withholding process could be impaired, and the burden of initiating and litigating withholding will revert again to the custodial parent.

In short, the section permitting non-defaulting parents to utilize the agency on the same basis as delinquent parents is one of the most constructive and thoughtful aspects of the House bill, and we can't urge too strongly that it be retained by the Senate without any weakening amendments.

I would also like to draw your attention to one final part of the wage withholding section which we consider to be extremely essential: that is the provision that all child support orders issued or modified after the effective date of the act include a provision for withholding whenever arrearages occur. This provision will assure that all custodians entitled to initiate withholding will be able to do so, simply, and without having to go back to the court to get a separate order for withholding. It is vital that this section be retained.

I would like to quickly go through a series of other remedies contained in the House bill that we favor, and then my colleague will speak about some of the ways in which the bill could be improved.

We favor the provisions that require that States impose liens and require obligors with a poor payment history to post bonds. We think these are essential ways of reaching absent parents who do not have a single or regular source of income, and that these provisions must be included in the bill that the Senate reports out.

We favor the State income tax, and would urge you to expand it to include families not on public assistance, for both the Federal and the State income tax intercept.

Finally, we strongly favor the provisions which require the reporting of past-due debts to credit bureaus, the inclusion of medical support in child-support orders, and the 4-month extension of medicaid eligibility for families whose public assistance grants are terminated as the result of child support, just as they are entitled to 4 months additional medicaid eligibility when their grants are terminated as the result of earnings.

Thank you very much. These are the high points of the bill that we hope will be included. And now, our suggestions for improvements.

Senator PACKWOOD. Ms. Stein?

[Ms. Kolker's prepared statement follows:]

TESTIMONY OF

NATIONAL WOMEN'S LAW CENTER
AMERICAN ASSOCIATION OF UNIVERSITY WOMEN
ASSOCIATION OF JUNIOR LEAGUES
THE CHILDREN'S FOUNDATION
DISPLACED HOMEMAKERS NETWORK, INC.
FEDERALLY EMPLOYED WOMEN
GENERAL FEDERATION OF WOMEN'S CLUBS
MEXICAN AMERICAN WOMEN'S NATIONAL ASSOCIATION
NATIONAL CONFERENCE OF BLACK LAWYERS, SECTION ON THE RIGHTS OF WOMEN
NATIONAL COUNCIL OF NEGRO WOMEN
NATIONAL FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN'S CLUBS, INC. (BPW/USA)
NATIONAL INSTITUTE FOR WOMEN OF COLOR
NATIONAL ORGANIZATION FOR WOMEN
NATIONAL WOMEN'S CONFERENCE COMMITTEE
NATIONAL WOMAN'S PARTY
NATIONAL WOMEN'S POLITICAL CAUCUS
OLDER WOMEN'S LEAGUE
WOMEN'S EQUITY ACTION LEAGUE
WOMEN'S LEGAL DEFENSE FUND
WOMEN U.S.A.

ON

CHILD SUPPORT ENFORCEMENT

SUBMITTED TO THE

SENATE COMMITTEE ON FINANCE

JANUARY 26, 1984

Prepared by:

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Senator Dole and other members of the Committee, I am Ann Kolker from the National Women's Law Center. I am appearing here this afternoon on behalf of:

- National Women's Law Center
- American Association of University Women
- Association of Junior Leagues
- The Children's Foundation
- Displaced Homemakers Network, Inc.
- Federally Employed Women
- General Federation of Women's Clubs
- Mexican American Women's National Association
- National Conference of Black Lawyers, Section on the Rights of Women
- National Council of Negro Women
- National Federation of Business and Professional Women's Clubs, Inc. (BPW/USA)
- National Institute for Women of Color
- National Organization for Women
- National Women's Conference Committee
- National Woman's Party
- National Women's Political Caucus
- Older Women's League
- Women's Equity Action League
- Women's Legal Defense Fund
- Women U.S.A.

Thank you very much for putting child support at the top of your agenda for the second session of this Congess. We hope that your attention to this issue reflects your commitment to act on the issue early in the session.

The dimensions of the child support enforcement problem have been amply documented before this Committee. Statistics describing the sorry state of child support enforcement are set forth in previous National Women's Law Center statements submitted to this Committee: it is nonetheless important to reiterate today that the problem of lax and ineffective enforcement is truly national in scope and requires a national solution. Census Bureau reports indicate that between 1978 and 1981 the numbers of women bringing up children without any assistance from an absent parent continued to grow. As the divorce rate rises and geographic mobility becomes more and more commonplace, child support enforcement is an issue which transcends class, ethnic and state boundaries.

The single most important statement we wish to convey today is that H.R. 4325 -- the House-passed Child Support Enforcement Amendments -- is a comprehensive and long overdue reform measure and should be taken as the starting point for action by this Committee. Although the House bill could profit from improvements and refinements which we will discuss below, the Senate should act expeditiously to pass similar legislation.

Before examining the many excellent enforcement remedies proposed by H.R. 4325, we feel compelled to draw the Committee's attention to one troubling provision in the bill -- the lowering of the compliance standard -- that could jeopardize the efficacy of all enforcement efforts. Section 8(a)(2) proposes amending the current compliance requirements for the states in ways which seriously threaten to undermine all of the changes proposed in the bill as well as the existing IV-D program. Currently, state plans must be submitted to HHS for audit and evaluation "to assure their conformity with the requirements of this part . . .." Under the bill the assurance of conformity is deleted and replaced with "substantial compliance." This change lowers the threshhold for compliance and thus makes it possible for states with incomplete and ineffective programs to continue to receive federal funding. Moreover, it makes it difficult for individuals harmed by non-compliance in states to sue to enforce the provisions of the federal statute. All of the provisions in the bill that strengthen the child support enforcement program and many currently contained in IV-D may be rendered meaningless if the bill simultaneously eases the compliance requirements on the states. We strongly urge the Committee to delete the substantial compliance language and retain existing compliance standards.

WAGE WITHHOLDING

The centerpiece of H.R. 4325 is and must remain the wage withholding section. Under this section, states are required to pass laws which would mandate withholding of wages after one month of arrearages accumulate, though states could enact laws permitting withholding to go into effect earlier if they chose. As set forth in the House bill, wage withholding would be automatic and could be implemented relatively simply and swiftly. Most of the features of the bill were designed to assure that withholding would be easily available to families when non-payment occurs. However, there are a number of ways that these provisions could be refined to make certain that all eligible custodians can take advantage of this effective remedy.

Strengths

Timely implementation of withholding is essential to establish a pattern of regular payment and to avert the accumulation of large debts which can be devastating to single parent families. We favor the features of the House bill designed to assure that withholding can be implemented swiftly.

The one month arrearage period is fair and workable as a federal standard. This is the most practical trigger and we urge the Committee to adopt this approach.

Once the wage withholding process has been initiated, H.R. 4325 provides that actual withholding must begin within a specific time period. We support the imposition of a thirty-day time frame within which the absent parent's objections must be resolved and withholding begun. All of the enforcement machinery will be meaningless without such a limit and will be weakened if the period is extended.

Section 3(b)(4) requires that the agency administering wage withholding "assure prompt distribution" of the payment to the custodial parent. We also strongly support this provision. Because it is so important that families are not kept waiting for their support, we suggest that report language reflect that absent special circumstances, prompt distribution should occur "within ten days." This will help to assure custodial parents that payments will be promptly forwarded to them once wage withholding has actually started.

Another aspect of the wage withholding established in H.R. 4325 which we consider vital to its effective functioning is the requirement that each state designate or establish a public agency to collect, track, and disburse payments made from wages withheld to custodial parents. This public agency, which we understand could be either a central agency administered by either the state, or local agencies under state supervision, provides several critical functions:

- Receipt of the payment will enable the agency to document the amount and date of the check, and maintain an ongoing record of the payment pattern. This tracking or official record-keeping function will substantially reduce, or even eliminate, the controversies about whether payment was made or received.

- By providing that payments may be made through the public entity or agency upon the request of one parent, even though no arrearages are involved and no withholding procedures have been initiated, the bill offers a vital, cost effective service to all children due support -- not just those who have absent parents with proven records of delinquencies. For a yearly fee, not to exceed $25, any parent -- custodial or absent -- can elect to avail him/herself of the collection, tracking, and disbursement services of the agency. Payment through a neutral or impersonal mechanism helps to keep the payment of support separate from any discord that the parents are experiencing. That often makes it easier for the absent parent to make regular payments.

The incentive to pay regularly through the neutral agency available to all parties involved in support arrangements should substantially reduce the number of obligors with erratic payment records. The availability of "an official payment record" will cut down the "resolution time" when a delinquency occurs and one parent contests whether payment was made. Without this agency, the automatic operation of the withholding process could be impaired and the burden of initiating and litigating wage withholding will revert to the custodial parent. In short, the section permitting non-defaulting parents to utilize the agency on the same basis as delinquent parents is one of the most constructive and thoughtful aspects of the House-passed bill. We cannot urge too strongly that this section be retained without any weakening amendments.

There are several other features of the wage withholding outlined in the House-passed bill that are desirable and should be incorporated in the bill which this Committee reports out:

o The requirement that advance notice and opportunity to contest withholding on very limited grounds of fact be provided to the obligor. Notice and hearing provisions are necessary due process protections for the obligor though the language governing these provisions needs refinement. We will work with staff to develop the requisite language. The strict limitation on the scope of the hearing assures that issues other than the amount of the arrearage, such as custody and visitation, cannot be raised at the hearing initiating wage withholding. The limitation keeps the withholding procedures immune from other issues which could be used to delay the wage withholding remedy.

o The provision requiring that the notice of wage withholding to the employer only contain information on the amount to be withheld and the date on which the withholding is to begin. This provides important privacy protection to both custodial and absent parents.

o The provision holding the employer liable for any amount which s/he fails to withhold. This provides an important sanction for employers who refuse to cooperate with withholding and concomitant protection for the individuals dependent on the support.

- The requirement that states provide for the imposition of a fine against an employer who discharges or takes disciplinary action against an employee whose wages are withheld. This is critical protection for obligors and further assures regularity of payment to children owed support by protecting the source of the parent's income.

- The requirement that states give child support priority over other debts which may be collected by withholding the same wages. This reinforces the importance of child support over other obligations and assures its priority treatment when obligors are subject to other financial obligations.

- Finally, the provision that all child support orders issued or modified after the effective date of the section as drafted -- October, 1985 -- include a provision for withholding whenever arrearages occur. This provision will assure that all custodians entitled to initiate withholding will be able to do so simply, without going back to court to obtain a wage withholding order. It will help facilitate prompt and expeditious payment through wage withholding to all children eligible for support payments.

Weaknesses

Major weaknesses in the wage withholding provisions as set forth in the House passed bill exist. The Committee's attention to these areas could clarify the bill's intentions and significantly improve the final bill which Congress passes.

o All individuals paying and receiving support -- not just those going through IV-D, should be eligible to participate in wage withholding. Some sections of §466(b), the wage withholding provision, suggest wage withholding must be available to all children receiving support, regardless of whether their custodians participate in IV-D or not. In other sections, however, the bill only discusses wage withholding in the context of the public agency, implying, perhaps unintentionally, that only those going through IV-D are entitled to initiate wage withholding.

To clear up this confusion, we suggest:

-- The proposed new §466(b)(1) be amended to require that the wage withholding remedy be available to any individual whether that individual participates in IV-D, retains private counsel, or has an order from another state.

-- The language discussing how the public agency must distribute payments must be amplified to include procedures for families not receiving public assistance. We will work with staff to develop language that will clarify that support payments for families should be distributed to those families and not to the state.

o Orders issued out of state must be eligible for wage withholding in the state where the absent parent works (or resides). Section 3(b)(9) of the House-passed bill recognizes that interstate enforcement is a special problem and requires states to make agreements with other states to extend their wage withholding system to cover income earned in the state, but owed to children living in another state, and to honor withholding orders issued in other states. The House report clearly states the intent that wage withholding be available regardless of state residence. We heartily concur with the objective of encouraging better enforcement in interstate orders. But to assure that this enforcement actually improves, more is needed. Improved interstate enforcement could in part be accomplished by some language changes in the wage withholding section that would clarify that withholding must be implemented for interstate orders.

Additionally, while on a limited regional basis states may be able fairly simply and expeditiously to enter into agreements with their neighboring states, the process of 50 states each seeking agreements with the other 49 (and territories and foreign countries) will require some assistance. In other contexts, such as URESA, the Uniform Commercial Code, the Uniform Controlled Substance Act, etc., a model uniform statute has been drafted and the states have adopted it in some form. In other areas, such as the Adoption Assistance parts of PL 96-272, the federal government has assisted the process of providing an interstate compact that states can adopt. We believe one or the other of these steps will be needed to make wage withholding available to children regardless of the state of residence of their parents, of their parent's employer, as the bill draftees intend. Finally, we are aware that the Office of Child Support Enforcement is currently preparing a study on interstate enforcement. We are pleased that OCSE is taking the leadership on this important issue and hope that the study provides recommendations for the development of other simple, workable schemes for withholding on interstate orders.

Operational Issues

The actual operation of wage withholding could be improved if the following changes were made:

o Automatic trigger mechanism for withholding. As the bill is currently drafted, in §466(b)(2) wage withholding would be initiated automatically for any family already participating in the IV-D program (whether or not they were receiving public assistance) and could be initiated upon filing an application with the IV-D agency by anyone not currently in the IV-D program. While the automatic trigger is very important because, for IV-D families, it takes the burden off the custodial parent of going to court or otherwise having to initiate the process, the provision as drafted is "over-automated." It fails to give the custodial parent the right not to go forward with withholding if for some reason s/he is opposed. Thus, we suggest adding language to this section permitting the custodian to object, after receiving notice that the agency intends to proceed. The practical effect of this will be to require the agency to give notice to the custodian that the one month, or other threshhold arrearage level designated by the state, is approaching, and that unless the custodian says otherwise, the state will initiate the wage withholding process.

o Fee to employer for processing wage withholding. The House passed bill, in §466(b)(6)(A)(1), requires states to permit employers to charge a fee for wage withholding for child support. We oppose employer fees on the grounds that employers are not permitted to charge fees for other types of garnishments, so they should not be able to do so for child support.

o Termination standard. The House passed bill contains a provision requiring that states provide for the termination of wage withholding. While we recognize that termination of withholding is appropriate in certain situations, we oppose this provision without any standard. As written, it is an open invitation for a state to permit wage withholding to end shortly after it has begun, which is counterproductive to the intent of the legislation. Hence, we suggest that language be added to §466(b)(10), which sets out criteria under which withholding can be terminated. These criteria must include, but not be limited to, the payment of all arrearages and reliable assurances that full and regular payment will continue once wage withholding is ended.

OTHER ENFORCEMENT REMEDIES

Though wage withholding is clearly the key component of the measure before the Committee, and should be retained and strengthened according to the above recommendations, the House passed bill has other important enforcement remedies that must be incorporated into the legislation reported out of this Committee. Below is a discussion of these remedies, with suggestions for ways this Committee could improve on them.

o Federal and state income tax intercept. The income tax intercept has been an effective way of collecting arrearages for families owed support. In 1982, the federal income tax intercept program collected over $176 million dollars owed to families receiving public assistance, and HHS officials acknowledged that without the sums received from the tax offset in 1981, the first year of the program, total collections for child support would have decreased.

Because of the federal tax intercept's record of proven effectiveness, it should be extended to all families -- not just those on AFDC. Moreover, states should be required to intercept state tax refunds for all families -- not just those on AFDC. In short, we believe that the income tax intercept as outlined in H.R. 4325, which establishes a mandatory state program for AFDC families only, does not go nearly far enough. We urge this Committee to consider expanding the tax refund intercept program on both the federal and state level to cover families not receiving public assistance. This could provide an enforcement remedy to all families that is currently available to welfare families. It is completely consistent with the legislation's intent of strengthening child support enforcement for all families -- not just those receiving public assistance.

Current law governing the federal intercept program and §466(b)(3) of H.R. 4325 governing the proposed state program also need refinement. The most glaring deficiency in these provisions is the absence of adequate notice and hearing procedures for the obligor. The procedure outlined in the pending legislation only goes part way toward providing adequate protection, first, because it only applies to state intercepts and, second, because it provides prior notice of the reduction and of the procedures to be followed to contest it, but not a prior opportunity to be heard to contest the reduction. We suggest that both the provision on federal intercepts and H.R. 4325, §466(a)(3), be amended to clarify that notice and hearing will be provided before the offset occurs. To accomplish this, we suggest the inclusion of the following phrase in both the current statute and the pending bill: "Any refund of income tax which would otherwise be payable to an individual will be reduced after notice to that individual of the proposed reduction and an opportunity to be heard to contest it."

We also suggest that legislative history be developed on this issue to specify that an individual includes joint filers. This is particularly important because refunds from joint filers have been intercepted when only one parent is liable for the past due support. In these cases, specific procedures for protecting the portion of the refund accruing to non-liable joint filers should be developed.

Two remaining problems exist with the state refund tax intercept as drafted. The first is that participation in the program appears to be limited to individuals participating in IV-D, although the House report indicates that states may extend the intercept to individuals who do not pursue support through IV-D. If everyone had to go through the state agency, the intercept would only be available to AFDC families and IV-D participants. Non-AFDC families with private counsel could not utilize the intercept. To assure the participation of all eligible families, we suggest deleting the enabling language at the beginning of §466(a)(3), "at the request of the State child support enforcement agency." Secondly, part B of the state intercept refund discusses the distribution formula for monies collection by this program. The language only addresses the issue of distribution for AFDC families, so additional language is needed to cover non-AFDC families. We suggest adding a phrase which clarifies that when refunds are intercepted for non-AFDC families, the money shall be distributed to the individual on whose behalf the support has been collected. Similar language should be added for the federal intercept if it is extended to non-AFDC families.

o Procedures under which liens are imposed against real and personal property for past due support. These procedures enable the custodial parent who is owed support to reach assets other than wages of an owing parent. This is one more tool available to families owed support and is especially important when the absent parent is not a wage earner. It has proved effective in several states and therefore should be required in all states. Notice and hearing procedures similar to those described in the intercept section should be included.

o Procedures which permit the establishment of paternity at any time prior to a child's eighteenth birthday. Statutes of limitations in paternity actions pose obstacles to effective child support enforcement in many states because they preclude children born out of wedlock from pursuing their rights to support and to other entitlements. The Supreme Court has repeatedly invalidated several state statutes of limitations on paternity, and state courts in at least six states (Arkansas, Florida, Kansas, Montana, New Mexico and North Carolina) have also struck down statutes of limitations for paternity as unconstitutional. According to the National Conference of State Legislatures, however, the majority of states still require that paternity actions be initiated within a specified time period ranging from one year after birth to six years after majority. Thus, we support the thrust of the provision in the House bill requiring states to eliminate their statutes of limitations on paternity until a child's eighteenth birthday. However, though a majority of states permit a child to receive support until age 18, some permit the support obligation to continue beyond that age, particularly if the child is handicapped or in school. To be consistent and to accord deference to variations among the states, the statute should require that states permit paternity to be established at least until the obligtion to support ceases under state law. We strongly urge the Committee to retain and improve this section.

o Procedures which require that obligors with a past history of irregular payment post bond, give security or some other guarantee to assure payment of their support obligation.

As with procedures for liens, procedures for posting bond or security under the terms described above, are vital for states to have available, so they can be applied as needed, particularly when wage withholding is not applicable. Over 30 states, according to the National Conference of State Legislatures, already have enacted laws granting the court the authority to require bonds or security from an obligor. We believe this is another in a series of enforcement tools that every state should have, and that the Committee should adopt the relevant provision, with the previously described notice and hearing requirements, in H.R. 4325.

- Procedures for Reporting Past-Due Support to Credit Bureaus

Another useful enforcement tool contained in the House passed bill is the requirement that states establish procedures for reporting outstanding child support debts to consumer credit bureaus upon the request of the credit agency. For some absent parents, simply knowing that non-payment of support would hurt their credit rating will encourage them to pay their child support. If nothing else, this provision will act as a deterrent to non-payment. The language referring to due process procedures of the state is confusing and should be deleted.

- Inclusion of Medical Support in Child Support.

We applaud the requirement that state child support agencies seek medical support as part of any child support order whenever health care coverage is available to the absent parent at a reasonable cost. Twelve states already authorize or require the state to seek medical support when it is pursuing child support, and judges across the country are increasingly requiring the absent parent to pay medical as well as child support. Nonetheless, to assure that this practice occurs in all states, it is appropriate for the legislation to mandate the authority for medical support. This provision should however be refined to permit the custodial parent to consent to the pursuit of medical support. In some cases, the custodial parent may have excellent employer provided health insurance and might prefer a larger support award to medical coverage. Thus, the statute at Section 16 should require that all states have the authority to seek medical coverage, but that they defer to the preference of the custodial parent in deciding whether to petition for medical support.

- Extension of medical eligibility for four months for AFDC families whose grants are terminated as a result of child support.

Currently, families removed from AFDC because of earnings are entitled to continue to receive medicaid for four months. The purpose of this is to provide transitional support to a family that is trying to become self-sustaining Families removed from the AFDC rolls due to the receipt of child support are equally in need of extra assistance while they are becoming self-supporting. We favor the extension of medicaid eligibility because it is equitable and consistent with current practice.

MISCELLANEOUS PROVISIONS

Finally, H.R. 4325 contains several miscellaneous provisions which the Committee should incorporate into the measure reported out.

- The requirement that states publicize the availability of child support enforcement services. The value of this provision is self-evident. Its inclusion in the statute is a good measure of the Congress' commitment to actually reaching the people intended to be served by this legislation.

o The state commissions on child support. These will provide a valuable forum for program officials, concerned citizens, and policy makers to assess critically the effectiveness of improvements made by this legislation and to address remaining problems faced by custodial and absent parents that can be remedied through legislation. We are particularly interested in interstate enforcement issues and in standards for establishing support awards and hope that each commission will pay special attention to these issues.

o The requirement that states provide enforcement services for spousal support, when the child and spousal support are part of a unitary order. Currently, this is optional to the states. According to the Office of Child Support Enforcement, 33 states currently collect spousal support. The provision in Section 11, making this mandatory, would assure that the remaining states collect spousal support. Without such a provision, the custodian must pursue child and spousal support separately, often to the detriment of the child because the custodian cannot afford to hire private counsel for assistance in collecting spousal support and thus the overall support owed to the family is smaller than it would otherwise be. One change is needed as this section is drafted. It applies only to AFDC families, but enforcement services for spousal support should be available to all requesting parents.

REIMBURSEMENT FORMULA AND INCENTIVE PAYMENTS

We oppose any reduction in federal financial support to the states. We will object vigorously to an attempt to cut federal funding for this program. In fact, the federal government's commitment to improving child support enforcement will be measured by its willingness to spend federal dollars on the program. We are satisfied with the incentive plan developed by the House, and urge that this formula, as well as the current 70-30 federal/state match, be adopted by the Committee. Anything less will be interpreted as reduced government interest in improving child support enforcement.

To sum up, we strongly support the House passed bill with certain refinements and improvements. We urge the Committee to report out legislation strengthening child support enforcement along the lines suggested above. The majority of parents bringing up children with an absent parent receive partial or no child support payments. These women and children must not wait any longer for what is rightfully theirs: regular support payments. They are all looking to this Committee to provide the comprehensive reform long due them.

Ms. STEIN. Thank you. I am very pleased to be here and appreciate your giving us this opportunity.

We do feel that H.R. 4325 is a good starting point, and we would like to recommend a few points that we think would actually strengthen the intent.

First of all, I can't state too strongly our concern about the proposed change in the compliance standard contained in H.R. 4325. We would not like to see the compliance standard that currently exists in the law and relates to all of IV–D changed as proposed in the legislation. This would weaken the enforcement that is, we believe, strengthened by the new legislation otherwise and would even weaken the existing ability to enforce the already extant IV–D provisions. We feel very strongly about that and urge you to revert back to the existing standard of compliance.

Second, we are concerned about the interstate enforcement abilities as presented in this legislation. The intent and the language in the legislation both are very strong with respect to making these new enforcement procedures available regardless of the State of residence of the child or the parents. We are concerned, however, that some changes need to be made in the drafting of the provisions about withholding, so that in fact these provisions and procedures will be available regardless of residence. Specifically, we think those provisions that define the scope of withholding need to include orders that are registered in the State, even though they have been issued out of the State, and orders that are covered under the agreements that paragraph 9 of the withholding provisions requires States to enter into.

We would also like, in this respect, to see that paragraph tightened to include coverage for agreements to enforce withholding where the employer of the absent parent is not in the same jurisdiction as the absent parent employee. There will be jurisdictional problems there that are not recognized in the current draft.

We would also like to see the legislation direct either HHS or the office of child support to take a lead role in assisting the States in developing these interstate agreements. We think that that is going to be crucial if they are in fact going to provide some uniform system that will be available regardless of residence.

Our third point concerns other aspects of the wage withholding provisions. I would just quickly outline what some of those are:

We support the automatic initiation; as Ann pointed out, the ability to pay in through a State agency is very important to that in order to make the trigger automatic; but we would like to see provision that the custodial parent could decline the withholding service, and that would require a slight change in the language.

We believe there is no reason for employers to charge a fee for withholding. So far as we know, no like fee is charged for any other type of wage garnishment, and we see no reason why such a fee should be charged here. We have suggested, if it is decided that this is essential, that at least it be optional with the States and permissive to the employers.

We are concerned, too, about the termination provisions for withholding. There are no standards set out in the current bill, and our concern is that without such standards it would be quite possible that as soon as the withholding is put into place and the family thinks it is secure, they would be pulled out again, and the whole process would have to begin again. So, in our written testimony we have proposed some specific standards that we think would be fair as a minimum.

We are also concerned that the withholding provision does not provide any distribution mechanism for non-AFDC families. We think that was an oversight, but we think it needs to be remedied.

We are also concerned that, while the bill places a 30-day limit on the time during which the determination of whether or not withholding is appropriate in the case can occur, that this 30-day limit applies from the point of notice to the obligor. There is no limitation at the front end of the system, and we see this as a real opportunity for the withholding procedure to drag out. We would not like to see this; we are concerned that the Senate look very carefully at balancing the fairness to the obligor with the need to make this process truly expeditious.

We have a few other points. They are contained, however, in our written testimony. And we really appreciate your giving us this opportunity to address the issue.

Senator **Packwood**. Let me say to you what I have said to some of the earlier witnesses. Your testimony is extraordinary. Your suggestions are very precise and very exact and very simple to follow. It is a great help to us to have those kinds of suggestions.

The reasons we needed them now, as you know, is that we want to go to markup. We are ready to move on this bill soon.

With that, I am going to have to adjourn this hearing momentarily and go to the floor of the Senate. Senator Grassley will be here shortly, and I will be on the floor of the Senate. So we will adjourn until Senator Grassley arrives.

Ms. **Kolker**. Thank you very much.

[Whereupon, at 2:06 p.m., the hearing was recessed.]

AFTER RECESS

Senator **Long**. I am here at the suggestion of the chairman, because the Senate is in session, and all of the Senators are very busy today. We will have to get by with the Senators who can make themselves available, and the chairman suggested I call the hearing to order and call on the next panel of witnesses.

So we will now hear from Connie Mallett, international president of Parents Without Partners; Martin Hochbaum, speaking for the National Commission on Urban Affairs, American Jewish Congress; and Kenneth Pangborn, president of MEN International, Inc., of Clearwater, Fla.

Suppose you lead off, Ms. Mallett.

STATEMENT OF CONNIE MALLETT, INTERNATIONAL PRESIDENT, PARENTS WITHOUT PARTNERS, BETHESDA, MD.

Ms. **Mallett**. Thank you very much.

I am Connie Mallett, and I am here from Novi, Mich. I am also here representing 203,000 custodial and noncustodial single parent members of Parents Without Partners, Inc., and, in addition, 19 State and local child support enforcement organizations, and we are in support of H.R. 4325.

You have a copy of our complete testimony, so I want to just very briefly urge passage, because we feel the bill contains some certain issues that we are very, very concerned about.

We believe that withholding is automatic and mandatory after 1 month; we are in support of that. The penalties for employers for noncompliance is an issue that we feel very strongly about; the provisions allowing children to sue for paternity and child support until they are 18; and, additionally, that State commissions that provide the forum for mandating custodial and noncustodial parents to discuss the visitation and the standard child support, we certainly strongly support.

However, we would hope that the compliance standards not be weakened by the use of the word "substantial," that the nonwage income should be required for withholding, and that non-AFDC families should be guaranteed access to State income tax refund offsets and the Federal tax refund intercept program.

You are hearing today from men's and women's groups. We are a single parent organization, and we see child support enforcement as a children's issue.

Thank you for having us.

Senator LONG. Is Mr. Martin Hochbaum present?

[No response.]

Senator LONG. Well, then, we will hear from Mr. Kenneth R. Pangborn.

[Ms. Mallett's prepared statement follows:]

Parents Without Partners, Inc.

An international non-profit, non-sectarian educational organization
devoted to the welfare and interests of single parents and their children

TESTIMONY BY

CONNIE MALLETT, PRESIDENT

PARENTS WITHOUT PARTNERS, INC.

ON CHILD SUPPORT ENFORCEMENT

SUBMITTED TO THE SENATE FINANCE COMMITTEE

January 26, 1984

Senator Dole and other members of the Committee, I am Connie Mallett, International President of Parents Without Partners, Inc., a non-profit membership organization of more than 203,000 single parents in the United States and Canada, with affiliates in England, Australia, and West Germany. We are the oldest and largest single parent organization in the U.S., with more than 1100 chapters in all 50 states. We represent all types of single parents, including the separated, divorced, never-married and widowed; our members include both men and women, both custodial and non-custodial parents.

In addition, we are also representing today 19 state and local child support enforcement organizations from 14 states, with memberships ranging from 12 to 1000. They are members of a Coalition we have formed, which seeks to provide a network for groups that provide mutual support and counseling.

Child support enforcement is one of the biggest problems faced by our single parent families, and our phones never stop ringing with members and non-members who are looking for help. While you all are familiar with the statistics regarding child support, and with the fact of single parent poverty

(48 percent of all female-headed and 20 percent of male-headed single parent families live below the poverty line), we hear about concrete consequences of a legal system that does not work very well for us. We hear of families being evicted because the child support checks stopped coming; of parents forced to take two or even three jobs to survive; of children as young as 10 taking sometimes dangerous, illegal jobs in order to help out at home; of parents who can't afford preventive medical and dental care; of children left alone because their parents can't afford child care.

These are all situations brought about by uneven and under-utilized child support enforcement laws and methods, and for this reason, we wholeheartedly support H.R. 4325, the House-passed measure, as a most comprehensive and helpful piece of legislation. The several supporting provisions, in addition to its core of wage-withholding and federal financing, would go a long way toward bringing many types of enforcement problems under its protection. We want to discuss a few weaknesses in this bill, and also several strong provisions that are especially important to us.

WEAKNESSES.

Compliance. Because these remedies are so necessary to our constituency, we do object to lowering compliance standards for the states. Whereas at present each state should be audited annually, H.R. 4325 would only require a three-year review. We object to the words "substantial compliance" replacing "compliance." "Substantial" is undefined and ambiguous and seems to us to undermine Congressional intent in requiring states to fulfill their responsibilities. We recently acted as a group plaintiff in the state of Maryland on behalf of members who were not receiving child support services they were entitled to under federal legislation. The word "substantial" would make such actions much more difficult.

Furthermore, penalties are lowered for states not in compliance. At present, the penalty is five percent of federal matching AFDC payments to states, but this has never been used, even though several states have not been in compliance. This bill would lower the penalty to two percent sliding up to five percent for repeated offenses. Although we understand this has been proposed so that the punishment is not so unpleasant that it will be used, it seems to us that more pleasant penalties do nothing to deter non-compliance, and we have no reason to believe that penalties would be used more often in the future.

Coverage of all child support cases. There is language in H.R. 4325 requiring states to include wage withholding provisions in all child support orders, not just IV-D child support cases. This is vitally important in order to make this enforcement tool available to everyone, because it is quite common that many divorces and original support orders are obtained by private attorneys and not placed in local support collection units. It is later, when the child support doesn't come in, that families do not have the resources to pay the attorney for enforcement. But we need the language clarified throughout the wage withholding section in order to make it clear that all child support cases would be covered.

Non-wage income. The language in H.R. 4325 allows states to make income other than wages liable to withholding, but we urge that states be mandated to find methods of attaching non-wage income. For the children of absent parents who are self-employed in small businesses or professions or who live on other forms of income, child support enforcement at present is close to impossible. Many of the children of our members fall into this category, and it is not uncommon for absent parents who are determined not to pay support to work in the "underground economy" or to become self-employed simply for this reason. A discussion of this part of the legislation in our magazine, The Single Parent, resulted in a greater number of letters and phone calls than any other single component.

State income tax refund offset. We urge that legislation requiring states to institute this procedure include all children, not just those who are receiving AFDC benefits. While we understand the desire to collect child support due AFDC children in order to replace public funds, we do not understand why working, taxpaying single parents should not have the same legal tools available to the state on behalf of AFDC clients. Child support enforcement is not a social service or a way for the state to reimburse itself; it is, or should be, part of the government's responsibility to enforce its own laws. Elsewhere in H.R. 4325, a new system of incentive payments to states rewards non-AFDC collections more equally than under present law in order to address laxity in enforcing non-AFDC support. It seems inconsistent to do so without providing equal access to all enforcement tools.

In addition, our Coalition members have urged us to express disappointment that H.R. 4325 does not include access for non-AFDC children to the federal tax refund intercept program. Once again, a program paid for by taxpayers will not be providing services to these working single parents who are struggling to be self-sufficient. Because federal refunds are usually larger than state refunds, this intercept program is potentially more important to us.

A cap on non-AFDC incentive payments. While we are very glad to see incentive payments to states for non-AFDC collections, we are concerned that the proposed cap on non-AFDC collections is at only 125 percent of AFDC collections. In most states non-AFDC collections are already higher than AFDC collections. The population of non-AFDC children is larger, and we have no breakdowns as to what portion of these collections are made voluntarily versus collections that must be pursued, or that the average amount of the non-AFDC child support payments is not larger than the average AFDC payment. If states are already collecting a larger amount of non-AFDC payments, and again, we do not know how much actual enforcement is being done on these cases, then the proposed 125 percent cap means that this incentive is no incentive at all.

We urge you to be careful in your attempts to provide child support services on behalf of all children. The difference in treatment between AFDC and non-AFDC recipients is one of the most commented-upon features of present child support enforcement among our members and Coalition members, dividing the have-nots from the have-littles. A recent questionnaire in our magazine about child support resulted in a number of respondents who said they were denied services because they were not on welfare.

One member wrote to us that she had been denied services in Illinois. "I could quit my job and live off Public Aid like so many other single mothers are doing," she said, "but I'd rather earn my own living. If I could just get the back child support that he owes me, I could afford to look for a better paying job and a better place to live." She has two children and has received no support for ten years.

STRENGTHS

As we talk with our members and organizations working on child support, we hear one comment over and over again. "We have laws for child support enforcement," they say, "but the laws aren't being used." This assertion was backed up by our child support questionnaire, in which 55 percent of the respondents blamed some combination of court workers, the Office for Child Support Enforcement, or their state or district attorney for failing to take advantage of enforcement laws or inadequately representing them. An additional 13 percent blamed judges for not enforcing laws.

H.R. 4325 would provide mandatory wage withholding. We cannot over-emphasize the importance of the word "mandatory." Laws must be used in order to collect child support; and when we leave it up to individual judges to use these laws, they are not used. Instead, in the words of many of our members, they give the proverbial "slap on the wrist." For many single parents, the court becomes the enemy. As Susan Speir, head of the California organization SPUNK, wrote to us, "More and more fathers are not paying support because they know they can get away with not paying support and nothing will happen to them."

H.R. 4325 would fill in gaps. Of course, it is not true that all states have adequate laws. Some states with poor procedures become sanctuaries for non-paying parents. H.R. 4325 would remedy this problem.

H.R. 4325 would make wage withholding automatic. By making withholding automatic, we place the burden of litigation on the non-paying parent who is violating a court order. Without automatic withholding, the victim bears the burden of starting the process of litigation, and perhaps bearing unfair costs.

H.R. 4325 provides fair methods for non-paying parents to contest attachments. We feel it is necessary that non-paying parents be given due process and a clearly-stated method for contesting attachments because of errors of fact. Other reasons for non-payment of child support usually concern disputes over the amount or visitation problems which need to be heard by individual judges, and would need to be separate legal proceedings.

Withholding after one month of arrearages. Many things can happen to a single parent family after one month of nonpayment. In addition to this one month period, the family must wait up to another 30 days for a decision in case of a dispute, and after that--because the mechanisms for sending a check from an employer to a court, and from the court to the family or even to a court in another state, can take time--it is vital that the original one month allowed for nonpayment not be extended to two or more months. Under the best of circumstances, the single parent family can be waiting for three months at least for a check, and during that time has to worry about possible eviction, loss of a child care slot, paying for needed medical care, clothing, etc.

While some of our noncustodial parents have objected to the concept of immediate wage withholding after the first court order, some have told us they are more satisfied with a one month period because it does give them the opportunity to pay their child support voluntarily.

Penalties for employers not in compliance. This is a necessary part of any legislation on wage withholding. For some of our members who are not receiving child support, the employer is the weak link in the chain. We know of employers who have threatened discharge, of employers who have kept the money they withheld, or who simply ignored the court order. In these cases, the custodial parent has no recourse if the state decides not to pursue the employer.

Liens against property. Again, this is a necessary part of a comprehensive effort, giving relief to the children of non-paying parents who do not have accessible incomes but who do have property.

Making withholding accessible for interstate cases. Although the interstate system is not a strong one, sometimes impossible to negotiate, making all the above provisions accessible to interstate cases can only help. We would be happy to work on any other improvements to the interstate system.

Paternity Statutes of Limitations. We strongly urge that this provision, which would require that state paternity laws permit the establishment of paternity until a child's 18th birthday, be included in the final legislation passed by the Senate. This is a very important provision that applies to 22 percent of all custodial single parents. This group also has the lowest child support award rate of all types of single parents, at only 14 percent.

Too often, the never-married mother believes she can make it on her own, or does not know her child is entitled to child support. Later, if she learns otherwise, she may have missed her state's statute of limitations and her child loses the right to be supported.

Paternity statutes of limitations are anachronisms at a time when we have developed blood-testing that is more than 99 percent accurate. There is no longer any reason to discriminate against these children because of evidentiary problems. Statutes of Limitations serve no purpose except to tell these children they are second-class citizens. We urge you to adopt this provision.

State commissions on child support. This provision is especially popular with our membership, especially because it would provide a forum for a discussion of some of the child support problems this legislation does not address—namely interstate cases, state standards for amounts of child support, and in particular, visitation. The Commissions would be required to include both custodial and non-custodial parent, giving non-custodials the opportunity to address some legitimate concerns. Because visitation is so important to our non-custodial membership, we would urge that states not be allowed to waive participation in this aspect of the program unless they are addressing the visitation issue and are including both custodial and non-custodial parents on their commissions.

Administrative matching payments. We support H.R. 4325's provision leaving the federal matching payments to states for administrative costs at 70 percent.

Other provisions. In addition, we support the other provisions of H.R. 4325.

We thank you for this opportunity to be heard.

STATEMENT OF KENNETH R. PANGBORN, PRESIDENT, MEN INTERNATIONAL, INC., CLEARWATER, FLA.

Mr. PANGBORN. Thank you, Senator. It is a pleasure to be here today representing the Nation's largest—and need I say most unpopular?—minority group.

We are here today supporting the legislation, I think to a lot of people's surprise, but we have some reservations and some considerations. We feel the bill is weak in some areas.

We are supporting the automatic and immediate wage assignment rather than the 30 days, primarily because of the stigma that will attach that can ruin people's future career paths. And in the realism of today's economy, the 30-day and 60-day arrearage is quite likely, anyhow.

Senator LONG. What?

Mr. PANGBORN. The 30-day and 60-day arrearages are going to likely occur in the majority of American families, anyhow. And we are playing semantics when we talk 30–60 days. Because of the simplicity, the savings in tax and administrative dollars to administer such a program, it ought to be implemented immediately. So, on behalf of our membership, we are supporting the immediate imposition of wage withholding in all cases, so that it is uniform across the board.

But we would like to ask, along with that, something that we think is reasonable, and that is the implementation of a uniform formula that is going to eliminate, even within the same court, child support awards for 9 children of $50 a month, or for 1 child of $9,000 a month. It happens almost equally on both sides. The formula exists already in HHS, in the dependency and foster-care programs; it could be plugged in and implemented into this. That is really the thing to solve the problem—uniformity, rather than this haphazard type of formula.

We would like to see state-of-the-art electronic data processing used to make sure that child support payments aren't trapped in a manual system that is turn-of-the-century; seeing little old men with these plastic visors and the garter belts on their arms with pencil and paper, trying to keep track of child support payments in a city of 10 million people is rather absurd. Even in cities like Milwaukee, Wis., that has a computer, entry of data into that computer is entirely manual, and there is as much as a 6- to 9-month backlog where child support payments are paid and it takes 9 months—or longer, in some cases, for the child support to actually get to the children.

In our written testimony we certainly have alluded to some things that we question, some of the statistics that have been thrown about, and we are very concerned over a lot of the rhetoric that we have heard. This is an issue that is exacerbated, we feel, by that, and it is time for us to get down to business and make sure this money gets to the children, which it presently isn't.

Senator LONG. I am very interested in what you just got through saying, Mr. Pangborn. I was somewhat surprised to see you come here to testify in favor of automatic wage assignments.

Mr. PANGBORN. Contrary to the popular belief, there are millions and millions of fathers out there who want to pay child support.

I provided an example of one of the things that I wanted to illustrate to Senator Grassley's aide, a case where there was a wage assignment in Delaware, where a father was ordered to pay $250 a week in child support, and his wages were attached. The income statement of the man—he makes $263 a week. The attachment of $250 a week allows the man $13.63 a week to live on. We cannot reasonably expect that that man is ever going to pay a penny. He is going to go into the underground economy, which is now at $80 billion, I believe, in this country. That is the need for the formula, and it is the lack of that formula that is one of the chief contributors to while child support isn't getting paid, that and the fact that the majority of States in this country define "visitation" as a privilege and not a right.

There are millions and millions of fathers who, after the divorce, will never see their children again. And it is hard to expect those people—I cannot justify it or rationalize it myself, but it is hard for me to condemn those people for not paying child support for children they can't see. I don't agree with withholding the support, but I can certainly appreciate their feelings.

Senator LONG. Could you give me an idea as to about how you think the formula ought to work? I would just like to get your thought as to how it ought to work.

Mr. PANGBORN. Basically, I think it is very simple. HHS already has a formula for foster care and dependency programs.

Senator LONG. This bill here does?

Mr. PANGBORN. No; HHS. The Department itself has a formula that they apply in grants for foster care.

Senator LONG. Could you just illustrate it for us, as something that comes off the top of your head?

Mr. PANGBORN. Numerically, I could not. I would just say that that formula does exist. It has multipliers that take into consideration——

Senator LONG. For a man who is making $2,000 a month, or $24,000 a year, could you give me some idea of about what part of his income he would pay?

Mr. PANGBORN. Two thousand a month gross income?

Senator LONG. Yes; about what part of it would he be expected to pay?

Mr. PANGBORN. I really couldn't answer that question as to HHS's formula; I could answer the question with some specifity as to what the courts are doing, because most of my livelihood is derived from appearances in domestic relations courtrooms.

In the case of one child and an income of $2,000 a month, and this would depend on your jurisdiction—if you were in Florida it would probably be $100 a month; if you were in a State such as Wisconsin, which is a bit more progressive, you may have an award approaching $400 a month.

Senator LONG. I see.

Mr. PANGBORN. The one thing you will find is, even if the same judge in the same courtroom in the same city is hearing the case, in one case of almost identical facts and circumstances you will see an almost ridiculously low amount of child support that comprises only 5 percent of the available income that could be brought to bear for support of the child, and in another case they are asking for 150 percent of the available income. It's that lack of uniformity that is robbing children in this country of food on the table and clothes for their backs.

Senator LONG. I think you have made a good point here. I have less knowledge than you have of it, but I think you are probably right about it.

Mr. PANGBORN. I think the majority of fathers are only asking that this country finally realize that the American family is made up of something other than just the mother and 2.5 children, that there is also a father, and we have done very little to encourage a loving father to really participate.

Senator LONG. I have been a lawyer by profession, but I didn't practice very long before I started running for public office. I never handled a child support case, so I just don't have the familiarity with it that you have. And yet I find myself wondering, as you suggest, why in these cases we have to get down to quibbling about every expense of the mother, how she is accustomed to living, and all the arguments about the cost to support the children, and all the rest. It occurred to me that a uniform formula as you are suggesting here might be a better answer.

Mr. PANGBORN. Like I say, it already exists. HHS has already developed the mathematics that takes into account the cost of living factors for a local community. The mathematics is entirely present and in place today. If we can adopt HHS's formula or suggest that HHS offer the mathematical formulas they have and implement that as part of this bill, we would have something that would have enthusiastic support for the child support legislation, and we could turn our membership out in favor of it in substantial numbers.

Senator LONG. Thank you.

Mr. PANGBORN. Thank you.

Mr. Hochbaum?

(Mr. Pangborn's prepared statement follows:]

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TESTIMONY TO THE UNITED STATES SENATE

SUBJECT: Child Support Enforcement
FROM: MEN International, Inc.
BY: Kenneth R. Pangborn , President
DATE: October 4, 1983

We would like to tell you about ourselves before we present our testimony. MEN International, Inc. is a non-profit corporation . We were originally incorporated in the State of Delaware, and recently re-incorporated under the laws of the State of Minnesota as well. MEN International, Inc. is a nationwide coalition of 132 organizations located in 45 states. As such, it is the oldest and largest coalition of men's/father's service organizations in the United States. The movement as a whole has approximately 750,000 members, which includes the members of affiliates of MEN International and other similar coalitions. MEN International traces its history back to a time prior to the turn of the century.

Within the broad definition of the movement, we estimate that there are as many as 1.2 million people who have at one time or another been associated with our movement who are still alive in the United States. Membership in our affiliate local organizations is fluid and membership can fluctuate .

MEN International, Inc. is supported entirely by its membership and does not receive any form of government grant from any political subdivision . MEN International, Inc. does not operate with the aid of private foundation grants. MEN International, Inc. maintains an extremely small treasury.

The purposes of our organization are primarily educational. A major aim is to provide information to our membership on developments in the fields of law, psychology, medicine and others which will impact upon their lives. We also provide a vehicle whereby the interests of our service population can have platform from which their views can be expressed. An important objective is to encourage a positive role image for the male gender and the responsibility of fatherhood. An unfortunate duty is to defend the father-child relationship from the deluge of depreciation in modern America. An overriding concern to our membership is our efforts in Child Abuse prevention.

OUTLINE OF SPECIFIC PROPOSALS

PREFACE: Since, in reality, we are dealing with a large number of bills before congress, all of which are similar in language, we will refrain from direct reference to specific page and line numbers. We will, instead, treat individual concepts contained in the many bills which we believe need change.

1. The premise upon which all of the Child Support Enforcement bills are based are estimates of the amount of uncollected or unpaid child support. While a "Clearinghouse" is proposed for the collection of data, there is no requirement that the states supply more than "opinions" or estimates as to such unpaid support, and no explanatory statistical demographics are required. We propose that every political subdivision (County and State) be required to supply accurate data via the use of " state-of-the-art " electronic equipment.

2. There is a wide disparity in awards of child support . The lack of uniformity is in large part responsible for the collection problems. We propose a uniform national formula for determining child support that consideres the actual needs of the children and the ability to pay of the obligee .

3. The language allowing determination of child support and establishing enforcement of child support through an "Administrative agency" contains language which can be interpereted as precluding an appeal process. Non-judicial determinations of child support are questionable without precise guidelines for their operation, and their control. We would propose that language allowing judicial appeal be clarified, and that this provision be approved only if a precise mathematical formula is enacted to establish clearly the scope in which these "non-judicial" agencies can operate within.

4. Information exists to suggest some of the major reasons for our present difficulties with enforcement of child support collections. Available "estimates" being utilized to "justify" Federal action, suggests a high rate of compliance with child support in the first two years following divorce, and a dramatic decline beginning about the 20th month. We would propose inclusion of language requiring the states to maintain, and to supply to the "Clearinghouse" information pertaining to enforcement of the non-custodial parent's relationship with the subject children. Clear and specific language requiring the states to equally enforce visitation priveledges with child support.

5. Almost all of the bills currently under consideration make provision regarding the eventuality of those obligees on unemployment, have unemployment data furnished. Specificly, there is a requirement that information be supplied in the child support enforcement effort pertaining to the obligee declining work and specifics about the potential work declined. The provision is a clear violation of the 5th Amendment to the U.S. Constitution, and also possibly violates the 14th Amendmend and 1st Amendment as well. The purpose for which this data could be utilized are obvious. We propose that such requirement be stricken.

CORPORATE POSITION

Of the bills we have been provided, only a few of the dozens , we are in general support, with modification, of the basic purposes of the proposed legislation. While many inequities exist within the present system, it has been the position of MEN International, Inc. that child support payments should be met if humanly possible.

It is also our position that this subject area has become one of the most highly politicized and highly distorted issues in America . The data available has been greatly misused and abused to force it to make statements it fails to support. We condemn in the strongest possible terms those individuals who have used this issue for their own personal financial betterment, and those individuals who have utilized this issue for their personal political objectives.

MEN International, Inc. condemns the practice it considers unethical of using children as "bargaining issues" for the financial betterment of individuals in domestic disputes. We condemn the individuals making such requests and we condemn unethical practitioners within the legal profession who encourage such cases. We call upon the American Bar Association, and local Bar organizations in America to establish clear ethical rules in this regard.

It is our position that the propaganda campaign abroad in our nation for the majority of the 20th Century, utilizing all of the classic propaganda techniques and devices, with the purpose of destroying the concept of the "Father" in the American family, and of the entire male gender, is malicious and of sinister objectives which will not profit our nation. The political, anti-male , anti-father campaign is resplendent with falsifications. The sources of these campaigns are highly suspect.

DOMESTIC RELATIONS STATISTICS

xx

92 % of child custody awards are to mothers.

4% of child custody awards are to fathers.

4% of child custody awards are to others.

90% of divorces are uncontested or default .

60% of those entitled to receive child support do not receive the full amount.

90% of the males awarded custody of children are not awarded child support.

95% of the fathers awarded custody and child support don't receive the full amount.

33% of fathers awarded visitation , have contact prevented by custodial mother.

85% of fathers awarded visitation experience some degree of harassment with visitationn.

60% of marriages will end in divorce.

75% of American children alive today will spend some portion of their childhood in a single parent home.

There are 22.5 million American children currently living with one parent.

65% of the court caseload in America is domestic relations matters.

20% of the lawyers currently practicing in America have taken courses in family law.

80% of the lawyers in practice today have had no formal education in family law.

90% of the lawyers, it is estimated, are incompetent to practice family law and cannot answer basic questions on principles of law in this field.

66% of fathers who contest child custody will not prevail even with overwhelming evidence of child abuse.

66% of the abuseres of small children are divorced mothers with custody and their male companions.

1% of the fathers awarded custody will abuse their children.

47% of America's workforce is female.

75% of married mothers work outside the home.

25% of mothers awarded custody following divorce will relocate with the children to a distant community.

50% of the fathers whose children have been relocated , will themselves relocate to the same community.

50% of the mothers who have relocated with the children, will relocate again.

Domestic Relations Statistics:

85% of prisoners in American prison institutions are from single-parent mother households.

70% of the children living in single-parent mother homes will abuse alcohol & drugs.

70% of the children in single-parent mother homes will be promiscuous.

70% of the children in single-parent mother homes will display anti-social behavior or juvenile delinquency.

70% of the children in single parent mother homes will consider or carry out suicide attempts.

70% of teen-age pregancies are to children of single parent mother homes.

30% of the children in single parent father homes will abuse alcohol & drugs.

30% of the children in single parent father homes will be promiscuous.

30% of the children in single parent father homes will display anti-social behavior or juvenile delinquency.

10% of the children in single parent father homes will consider or carry out suicide attempts.

-1% of teen-age pregnancies are to children of single father homes.

-1% of prisoners in American prisons are fron single father homes.

In 1970 census figures indicated 735,000 households of single parent fathers.

In 1981 census figures there are now approximately 585,000 single father homes in America.

90% of the single parent father homes exist due to death of the mother or abandonment.

There are 22.7 million single parent mother households in America.

There are 1.6 abortions per live birth in America.

Single women will earn 59¢ on the dollar of a married head of household male.

Single males will earn 57¢ on the dollar of a married head of household male.

I INFORMATION CLEARINGHOUSE

The present system employed by the vast majority of courts in America are straight out of Charles Dickens. Only a handful of counties across the nation employ electronic data processing. In the rare cases where electronic equipment is used, its application is extremely limited, and posting of data is entirely manual.

Of the limited application electronic equipment is utilized for, is recording child support payments. Not all child support payments are recorded through a central processing point. Almost all jurisdictions still allow for direct payment of support. As payments are made, posting proceedures vary from manual ledger sheets, to manual posting to electronic equipment. Posting in the manual jurisdictions can be as much as several years behind. In jurisdictions utilizing electronic equipment, delays of several months in posting accounts is still commonplace. This also causes delays in receipt of funds by those entitled to receive them.

Actual orders of the court, and modifications to the orders are seldom posted to the equipment. The initial program may record arrearages when in fact none exist, or may record a surplus of payments when in fact an arrearage exists. Recordskeeping is in most cases only slightly modified from what was the case in 1900 .

Statistical data is nearly unobtainable from court systems that have never had such need occur to them. Retreival of statistical information must be done by a manual sight search of the records, which are often not segregated from other civil cases. For example, in an effort to extract information from records in Milwaukee County (Wisconsin) , to obtain information from a sampling of 100 divorce cases, over 5,000 files had to be manual inspected. The result was complete chaos in the records room for a week. Some information had not been placed in the files , a process than can take months .

Clearly what is needed is that the subdivisions of government which operate the court systems must be required to update their recordskeeping proceedures with state-of-the-art technology. Statistical data must be made available on all aspects so that accurate information can be obtained.

One of the most serious problems that faces this committee is that the data which is being provided to you that appears to indicate the scope of the problem is based on "estimates". And, estimates are by their very definition "opinions" .[1] Educated opinions to be sure, but opinions never-the-less ! The error factor I might suggest could be high. In view of the unavailability of hard data due to the accounting proceedures that exist, there is no proof that this is not the case. No matter how "informed" an opinion may be, or an estimate, it lacks the necessary credibility upon which to act. As I am given to understand, the Census figures relating to child support were gathered by responses to a questionnaire mailed out to women who collect child support. This is the basis for their estimates as to the 4 billion owed in child support. I might speculate, with your permission, that had the men who pay child support been questioned, we might have figures that indicate a 2 billion dollar surplus. I think I make my point !

Much of what we are discussing is speculation because we have no ascertainable facts. What we propose, is that the concept of the "Clearinghouse" be expanded to require the states to supply more data, and more accurate data as opposed to guesswork. I am, of course, asking that statistical information of a detailed nature be included on child custody and visitation enforcement as well. We need an accurate statistical picture of what is happening to cause the American family to fail at such an alarming rate. Armed with this data, our society can better find answers. What are the demographics ? Where can we best expend our efforts ?

Congress should somberly consider the staggering costs to our society from the divorce rate. Certainly the erosion of the family unit should strike alarm into us all with the social disruption it causes. The erosion of values . But to be more practical for a moment, the major cost in the justice system is related directly to domestic relations cases. If this were not enough cost, certainly the burden of entitlement programs should cause an in depth probe. If that were not enough, the fact that the crime rate in America is linked irretrievably to the divorce rate, as prison populations indicate. The cost of maintaining the criminal justice system cannot be ignored. The cost to our gross national product from losses due to crime can neither be ignored. In short the cost to our nation from the benign neglect is well in the billions of dollars. The taxpayers have a right to demand that congress explore this problem more deeply. There is not a Senator or Representative in Washington whose district does not suffer the consequences of America's neglect.

II UNIFORM CHILD SUPPORT FORMULA

From state to state a chasm exists in awards of child support. Within most states a similar disparity also exists. Even within the same court there is an incredible lack of similarity in child support awards, although they have nearly identical fact situations. Child support is one of the legal issues in almost all jurisdictions within the discretion of the court. A wonderful word, discretion, it is sort of a legal coin toss.

Most people assume child support awards are based on the actual needs of the children, and the actual ability of the parent to contribute the amount toward the child's support. The amount of child support depends solely on the caprice of the judge.[2] Awards have been known to be ridiculously low in cases, but they have been also known to exceed available income in many cases as well. The lack of records prevents us from knowing for sure who is injured more frequently. In both cases, however, ultimately it is the child who will suffer.

There is a tendency in many jurisdictions to conceal alimony payments within the amount of child support awarded. The logic is that ; because it will be more difficult for the man to rationalize not paying child support, and resistance to alimony is so prevalent among men in our society, it is an easier path to provide this form of compensation . Alimony is currently in great disfavor, primarily because of the resistance to it. It has been estimated that as much as 97% of alimony payments weren't collected. While few men resist child support payments to the point of going to jail, too high a number of men were defiant to the point of demanding jail before they would pay alimony. One of the more modern folk-heros of the men's movement , in the 60's and 70's, in fact died while in the Illinois State Prison refusing to pay alimony[3] .

Delaware has developed the "Melmson Formula" in recent years, and while special interest groups give the repressive formula high marks, the formula is currently under challenge and likely to be shelved. A few other formulas have been attempted and abandoned. None of the formulas have been the result of serious objective consideration. The formulas to this point have been expressions of political attitudes.

Our objective would be to employ some of the ample brainpower available in America to develop a standard child support formula. As an integral part of establishing a uniform formula, we would agree that automatic withholding of that amount would be desirable . If the state courts can be compelled to employ a modern accounting system , then the payments should be credited through the courts. Delays when going to an outside agency such as the Internal Revenue Service , or the Social Security Administration, would be unacceptable. Delays in the court obtaining an accounting printout, which is likely to become necessary at a later point.

A formula that contains the necessary elements of flexibility to consider special circumstances such as medical needs of handicapped persons should pose no mathematical problem. We would hope for a system that would require a judicial explanation for deviation from the formula.

Through the use of a standard formula we would eliminate the cases where $50 a month is awarded for 9 children, or where $8000 a month is awarded for one child. Child support awards should be neither enrichment nor punishment for either parent.

The United States Department of Labor has published in the past information relevant to the cost of supporting children. Costs such as rent and rate of pay vary dramaticly from area to area, however a statistical multiplier can easily be developed and worked into the formula to take such variances into account. There is no mathematical reason that such a formula cannot be established and implemented nationwide. It certainly would go a great distance toward eliminating the abuses that now occur with regularity.

The establishment of a national uniform formula would in large part, also be responsible for being a disincentive to some of the acrimony which presently permeates divorce proceedings. There would be less maneuvering room to " go for the throat" , and less incentive to use other issues such as custody as a "bargaining tool" .

III ADMINISTRATIVE DETERMINATIONS OF CHILD SUPPORT

Language in many, if not all, of the bills pending, provides for child support to be set through administrative or quasi-judicial panels.[4] There is substantial question as to the intended definition of who these agencies are. There is also the substantial question of the legal restraints under which they shall operate, and the scope of their authority. In several states, child support has been determined by the local welfare agency in certain cases. Stories of abuses by these agencies are much more frequent than in judicial determinations.

The central question becomes one where "punishment" for non-compliance is considered. Could such an agency set an unreasonable support level, and then on its own order direct imprisonment ?

Language in S 1708 and several other bills can be interpreted so as to preclude appeal from these "administrative" edicts.[5] The imprecision of the language with respect to appeal causes serious constitutional questions as to due process.

With a workable uniform child support formula, and with "judicial review" and appellate processes, there would be no objection to utilizing administrative proceedures. Without such safeguards, there will be considerable objection and resistance. A constitutional challenge would be impossible to avoid.

Certainly administrative proceedings, under strict supervision, could result in a substantial savings of valuable court time, and a considerable savings in revenues currently expended. It becomes a question of a job being performed by a Judge paid at a rate of $60,000 a year versus being performed by an administrative person paid $20,000 a year. This potentially could free judges to hear more substantive issues.

IV EQUAL ENFORCEMENT OF EMOTIONAL CHILD SUPPORT

Convenient thinkers limit their conception of child support to the dollars and cents of such support. There exists an even more essential element to the support of children, that is their emotional support.

It has been well established in numerous learned inquiries, that children have a clear need for the love of both parents irrespective to their marital status.[6] Yet denial of visitation by custodial parents is commonplace. Most states define visitation as a priviledge and not a right. Visitation orders by courts across America are needlessly vague, utilizing terms such as "reasonable" or "liberal" . Divorcing parents can seldom agree on either definition.

The acrimony that exists in divorce cases most frequently leads to substantial difficulties for the non-custodial parent (father) in futile attempts to enforce visitation priviledges. While courts potentially have contempt powers, those powers are invoked in fewer than one case out of 3000 . Total concealment of children from non-custodial parents (fathers) have resulted in only two contempt citations leading to confinement in the entire United States in recent memory. In three cases courts have awarded money damages.[7]

Available statistics indicate that on one in twenty two divorce cases the non-custodial parent will "snatch" the children.[8] But, the same statistics show that concealment of children from the non-custodial parent occurs in one in three divorce cases.

Since visitation is considered a priviledge, and not a right , there is scant enthusiasm for enforcing the orders. Contempt citations, as rare as they are, have been overturned on the basis that the original visitation order was so vague it would be unreasonable to deprive a citizen of their liberty for its violation.

You should also consider the legal rights lost by the non-custodial parent (father) . While the Federal Educational Rights And Privacy Act provides otherwise, most non-custodial parents will find educational information for their children denied them.[9] They are prevented by law in most states from authorizing emergency medical treatment. They lack legal standing to: authorize or object to early marriage, early military enlistment, or change in religion for their children.

Non-custodial parents also are prevented from obtaining access t welfare reports pertaining to the well-being of their children. By law in most state non-custodial parents are precluded from access to child abuse reports pertaining their children, even under subpoena. Non-custodial parents in many states may n file suit or recover damages on behalf of their children. A non-custodial parent participation with their children in many activities , may be denied by the custodi parent.

The courts, under the doctrine of Parens Patriae (In loco Parentis), ha clearly established the custody decree as a property deed, and relegated t non-custodial parent to the status of "visitor". A disposable non-parent ![10]

In the sphere of time following the "day in court" many changes occ Attitudes of both parents change, most frequently for the worse. Acrimony, instead lessening over time, frequently is enhanced by the conflict of interests and le rights. The acrimony is encouraged by external sources. In most divorce cases, th will be relitigation of issues following the "Final Judgement" . Relitigation m frequently pertains to visitation and/or child support.

In our experience, motions to enforce visitation are seldom recei favorably by the courts. Most frequently the motion to enforce visitation meets wit countermotion for an increase in child support. Motions for increase in child sup under these circumstances prevail in over 75% of the cases. This is a str disincentive .

In the two years following the final decree, most men have had probl even with the infrequent visitation intervals awarded. The average visitation awar America is one week-end per month with children over age 5, less if children under age 5, two weeks during summer, and part of Christmas day. Such lim exposure is hardly conducive to establishing or maintaining the parent-child b This bond erodes over the two year period. A great many fathers have had such a heaped on them in futile attempts to exercise even this paltry time with their c bitterness and futility take over. A great many men reason that there is no reaso pay support for children they cannot see, and who are being "programmed" t agents of their ex-wives anger. While special interests will deny that there is truth to this allegation, and that it is "proof of our anti-woman" attitudes, people intimate knowledge of domestic relations are familiar with the truthfullness of it.

Visitation for fathers with children under age 5 is, most frequently, quite limited. In my own case, when my former wife and I were first separated, I was allowed one Sunday per month from 1PM to 2PM , because my youngest child was still an infant (11 mos.) . On the first visitation following the order, 7 weeks later, I was confronted by her boyfriend who objected to the visitation and a physical altercation took place. The gentleman underestimated my desire to see my children and he spent several uncomfortable days re-thinking his eagerness to make decisions about my children's right to see their father. My experience has been shared by hundreds of thousands of other fathers in the vignette I have related. It has been the subject of litigation. [11]

Do not make the fatal error of disregarding the subject of visitation in your exploration of the subject of child support. The two issues are inexorably linked together. There just is no conceivable way for you to solve the problem of child support collection without also dealing with visitation. Knowing the emotions that form the undercurrent in this situation, legislation that does not take into account visitation problems has a future of failure. The only other solution I know that might work to any degree, is one that has been suggested in the House, making support arrearages a Federal crime, and establishing a "work camp" in Arizona. I doubt however, that America would be able to pride itself in the establishment of a Gestapo Concentration camp.

If legislation is to have any prospect of success, it must have the essential element of fairness. I would suggest to the special interests, that fairness must extend to both parties. The fundamental question I would ask, is whether child support is for the benefit of the mother, or is it for the benefit of the child ? Is the proposed legislation an expression of gender based anger and retribution, or is it to solve the problem to the benefit of America's children ?

The first step in the direction of enforcing visitation is to have accurate data on the subject. The "Clearinghouse" that will be established can easily serve that purpose. If states are required to furnish demographic data on divorce, custody and visitation, they are likely to take the subjects more seriously than they have. As part of the State's eligibility to reap financial benefit from child support programs, they should at least be required to make a minimal showing that they are also enforcing visitation. We are not referring to a quota system, just that the court specified visitation is fulfilled in the same manner as monetary child support is, and to the same degree.

V UNEMPLOYMENT & CHILD SUPPORT

In S. 1708 and other bills language is included which requires the States to accumulate certain data with respect to those unemployed (fathers) required to make support payments.[12] The majority of data, such as the unemployment compensation rate is a reasonable information request. However, the requirement for data relating to the declining of potential jobs is an unreasonable request, and has serious constitutional problems.

The purposes for which this data can be used would escape only a fool or person ignorant of domestic relations cases. Even now, when such information becomes available one way or another, it has been used to assert to the court that the unemployment is willfull. Most courts, provided with such information, have a clear track record of requiring support payments to be made at a level as if the individual (father) were fully employed. Men, under such circumstances have been sent off to jail quite frequently.

While the individual may have good cause for turning down a position, the burden of proof is entirely his, and I might add that our society while it has tossed about many euphemisms about gender equality , still holds feverishly to the stereotype of the male as the "primary breadwinner" . The father's reasons for turning down a job offer aren't likely to be received in a friendly light.

This provision provides a fundamental question of 5th Amendment rights. The right against self incrimination. There is no purpose for requiring the information of jobs that are declined, except for prosecutorial ends. While this may seem acceptable to the special interest groups, it will not pass constitutional muster. This provision will inevitably be challenged. The Courts not overturning the law on the basis of the 5th Amendment would be too dangerous a precedent to set. Survival of a legal challenge , therefore is unlikely. The special interests have a convoluted rationalization for this provision. At the heart of their rationalization is the belief that these (fathers) should not have any civil rights. There also remains the question as to how necessary this provision is. Will child support collections fail or be seriously damaged without it ? The answer is a precise, No ! All we will accomplish is untruthfulness on unemployment forms. They simply will not report work refused. The purpose will be defeated in practical application, and the provision presents a similarity to a dog chasing its tail. An exercise in futility! It would be a good expression to attempt to discredit the male gender, and I suspect that somewhere that's the idea.

It is far too comfortable in this part of the 20th century to forget why the 5th Amendment to our Constitution exists. The right to be free of self incrimination is fundamental to democracy. It outlaws the torture chambers where people can be forced to give confessions and evidence against themselves. The 5th Amendment must apply to all situations. No matter how lofty our purpose may be, infringement on the sacred 5th Amendment is one of our civil rights that must be most jealously guarded.

The special interest groups lack the basic concern for the rights of their targets. Over and over their rhetoric becomes a elaborate system of rationalizations, and emotional arguements to manipulate opinion.[13] The credibility of the special interest groups fails considerably due to their heavy-handed demands for retribution. A fair and equitable solution is not on their agenda. Vengence against the male gender looms distinctly as their central aim. They seek special advantage . The word "equality" has a strange and twisted meaning in their vocabulary.

While there are those who would argue that this is a special circumstance and that the people affected should not be entitled to the escape of the 5th Amendment, or that self incrimination on this topic should be exempt from protection of the 5th Amendment , etc. If we make an exception in this case, then perhaps we can make an exception with those plotting terrorist activities. We can take those accused of such crimes to a dark basement and beat confessions out of them with all the intracate devices of the Marquis De Sade.

There is a legitamate purpose for having information about work refusal on unemployment forms. The consequence for irresponsibly turning down work under present circumstances would be denial of unemployment compensation. To turn the legitamate use of the information over to possible prosecutorial purposes is a fundamental betrayl. Uses in child support collection of the information regarding work refusal , other than for purposes of enforcing collection of the full amount, and eventual prosecution, are fictitious.

It is our firm position that the requirement for Unemployment Compensation agencies to furnish this part of their records is unconstitutional and should be removed from the language of the proposed legislation.

VI SUMMARY OF SOCIAL ISSUES

In 1983 92% of the awards of child custody in the United States will to women, and almost soley because of the "old wives fables" that permeate 1 subject of child custody law. The "Tender Years Doctrine", while removed from 1 statute books of most states, remains alive and well in case law. The pronounceme range from the sublime to the completely assinine. One Court has held that "there but a twilight zone between a mother's love and the atmosphere of heaven".[14] I won if that Judge was related to Rod Serling ? Still another court maintains that fath will not be considered equally for custody of children "until men are as gifted lactation as are the mothers".[14] In the latter case, the child in question was a 14 y old boy. Given the voracious appetite of a 14 year old, we can hardly but wonde the Utah Judge considered the unreasonable demand he was making on the mothers Utah ? I think most 14 year olds would be a little embarassed breast feeding. ' this thinking prevails even in the face of child abuse statistics which show divor mothers responsible for an extremely disporportionate incidence rate.

When we look at the statistics that shows us that only 10% of fathers awarded custody are awarded child support, and of those 95% receive noth it brings this issue into better focus. The problem is not a matter of one gender be worse than the other, it is a matter of parental status. Those parents reduced to status of "visitor" are not likely to pay. Why, is a question that would be n appropriately answered by a psychological investigation.

A concern we must restate is that the child support numbers we have heard are "estimates". It is somewhat alarming to us that there are three agencie the Federal Government who issue statistics on child support collections. They are Department of Census, The Department of Labor, and Health & Human Services. concern stems from the wide disparity in the figures between the three agencies. course we might like to pick the lowest set of numbers and claim that they are most accurate, while the women's lobby will claim the highest set of numbers, w is of course most advantageous to their political objective. If we do this, we all the point, that none of the numbers comes to us with any credibility at all. They at best educated guesses.

We find that the smug moral indignation of the special interest lobby pales in reflection of their own statements. Constantly in their own literature and pronouncements children are referred to as their "best bargaining chips".[15] The very statement betrays a motivation quite sinister. Most accurately the term "bargaining chip" can be exchanged for "meal tickets". I wish it were possible to ignore the attitude of many who utilize their children for a "free ride" in life, but the incidence is epedemic. Our current social and legal climate is far too encouraging.

The special interests have begun a new phase to their political lobbying efforts. The tax funded corporation has given birth to a new agency operating within its guidence and directly assisted.[16] It seems that the 4% of fathers who are awarded custody of their children, even though 75% of those are with the agreement of the mothers, represents too high a rate. It stikes us as quite greedy to complain about an over-all 1% rate. In recent publications these organizations have lobbied for another exercise in linguistic gymnastics.[17] They have been lobbying for a new label for an old fable, or asking for "Primary Caretaker" to be the sole basis for custody determinations. The primary caretaker label is just a new name for the old maternal preference, "Tender Years Doctrine". Perhaps a triffle better rationalization, but no more valid.

In documents circulated throughout the United States, and at a recent convention of State legislators, the special interest continues its propaganda campaign of disinformation and misinformation. Citing a California study, they allege that "fathers do not want custody of their children" because so few men contest custody.[18] I would ask the woman who made that preposterous statement if she is also suggesting that we return to the days where we demanded that rape victims put up unreasonable resistence to her attackers ? The reality of divorce, and child custody law is well known to almost every male inhabitant of the United States. Expecting men in large numbers to contest custody is very much like expecting a single soldier to face the nuclear arsenal of the Soviet Union with only a wooden club. The originator of the statement knew she was speaking falsely, and did so deliberately to mislead for her political purposes.

The family law system is the worst vehicle that could have been slected to resolve domestic relations cases. The legal process is a work-over of the criminal justice model, and as such is completely adversarial no matter how much the euphemism of "no-fault" is used.[19] Still another severe problem exists. In the judiciary of America the disdain for domestic relations is intense, and often the family court bench is used as "punishment" for Judges who have fouled up elsewhere.[20] It is said that 90% of the lawyers " are either corrupt or incompetent"[21]. 90% of the lawyers-in-practice today could not answer basic questions on child custody law .[22] Lawyers are also steeped in development of an adversarial thought process. As such, lawyers think in terms of legal rights, and not in terms of human needs. I would suggest to you that you have the right to jump off the top of the Empire State Building, however somewhere on your fall, if you were wise, you might begin to wonder if you really "needed" to exercise that right at the moment !

I could relate thousands of individual stories about the abuses that occur on both sides. I will settle for just one that will best illustrate my point of the capricious and often silly nature of the present system. Consider, for a moment, the plight of Dwayne Jackson of Liberty Missouri. Late in 1979 he was hauled off to jail for being 2 years in arrears in child support.[23] The child for which support was allegedly owed had been dead for those two years. Jackson was not released until the full arrearage was paid. He continues to this day ordered to pay support for a dead child !

It has been clearly demonstrated repeatedly that when the fathers are treated with some consideration as human beings, complaince with child support is very high. Certainly we do recognize that there are some men who will refuse to pay even the most negligible amount, and who refuse to maintain a relationship with their children. It is our position that this is a small number of men. We do not defend such attitudes. Nor do we accept their rationalizations.

In conclusion, I speak with some considerable experience in this field. I deal extensively with child custody and domestic cases professionally. I am divorced, and I obtained a modification of custody two years ago. I paid $426 a month in child support in the four years I did not have custody. I have received $3 in the two years I have had custody. I have four daughters, Karen age 13, Stephanie age 11, Mary age 9, and Julie age 7. From my own situation I have a sensitivity to those who do not get child support. But I also appreciate my former wife's feelings and understand her pain.

I would like to point out that when I obtained my children, they were experiencing problems emotionally , in education and in health. My oldest daughter, Karen was diagnosed as symptomatic of adolescent suicide syndrome. Since I have had custody my daughters are now in the top 10% of their respective classes, and no longer have either the health or emotional problems they were returned with. Mine is not the story of "Superdad". I am not an unusual father. I am very typical by all the evidence that is currently available. It seems that children appear to do very well in the custody of fathers, especially female children. Also, when I first obtained my daughters custody, their main ambition was to be a beautician (an almost impossible dream to them) , or resigned to "having babies and going on welfare" . Today one daughter has staked out a career in law, and one a career in Psychology. While these goals may change as the girls mature, I am most encouraged that their goals have moved somewhat upward, and their hopes for being able to achieve those goals is markedly stronger than their former dream of attending beauty school.

Appearing here is both frustrating and frightening. I am very conscious of who and what our opposition is. The special interests have the advantages of federal funding and a superior education. I am just a very average person, thrust into the uncomfortable position of responsibility I hold, and scant resources to actualize them with. MEN International, unlike other groups represented here today, cannot dip into the Federal till to fund research. We cannot afford to transport, at taxpayer expense, impressive speakers to articulate our views at these hearings. We'd like to be able to do some of those things, but to this point in time , only women's projects are in funding vogue.

It is not our position to oppose the current crop of legislation. We are in general sympathy with the basic intent of the legislation. We only desire to offer views that we feel will "improve" the legislation, and hopefully provide an increased chance for it achieving its goals. We are not here to slander the female gender, neither are we here to allow the male gender to have abuse heaped upon us. The vitriolic political rhetoric of the battle of the sexes is totally out of place here. I have heard, and I am sure I will continue to hear completely inappropriate argumentation on this subject. It is my sincere hope that Congress will see fit to recognize the validity of my declarations. Thank you.

KENNETH R. PANGBORN
President,
on behalf of :
MEN International, Inc.

SUPPLEMENTAL TESTIMONY

Subsequent to our initial invitation to present our testimony we were supplied with copies of several additional pending bills. The length of these proposals precludes answering them in the 25 page limitation. Therefore we request consent to extend our remarks beyond the limitation.

The "Economic Equity Act" touches many topics in and of itself. One provision allows an entitlement of one spouse (female) to the pension or anuity benefits of the other spouse (male). [24] The language which triggers eligibility to these benefits will damage most second families. When we consider the divorce rate of young marriages today (60%+) and the nearly 100% remarriage rate, we soon begin to discover that this touches an alarmingly high number of American families. It will be common for the first wife to receive 100% of the anuity benefits even though the marriage may have lasted only days or months and the second marriage was of substantial duration (20 years or more).

The Act is unfair where it entitles an "individual" to receive all or any portion of the benefits to which a participant or the participant's beneficiary may be entitled. [25] We think that allowing a divorced wife entitlement of 100% of a man's pension benefits is excessive and perhaps a bit greedy.

In the act's provisions for child support enforcement, the question of mandatory wage assignment is begged. [26] We find across the board wage assignment preferable from inception of the obligation to the stigma and punitive aspects of selective wage assignment. We have a considerable problem with allowing inception of wage assignment solely on the basis of an affidavit by an adversarial party without a verification mechanism of adequate dimension. There are those who claim that the occasion of false affidavits in such cases are rare, but anyone experienced with domestic relations courts knows this proposition to be so much propaganda. Any accounting system, such as is proposed, which relies on the good faith of an adversarial party runs contrary to common experience in domestic relations. Perjury is an art form in divorce courts that makes Hollywood blush with envy. Exaggeration and lies are holy sacraments. Saying that emotions are supercharged is understating the facts. Reliance on the veracity of an adversarial party in such circumstances with no adequate verification mechanism is insane.

Our strong objection to establishing quaşi-judicial and administrative proceedures for administering child support ajudication is enhanced by other provisions in the current legislative proposals which tacitly limit appeal of such determinations to the custodial parent, [27] and which prohibit a state from reducing child support awards once they are established "directly or indirectly" . [32] This provision would obviously preclude reduction in child support for any of the following reasons; child reaches majority, death of child, unemployment of father, incapacity of father, adoption of child by step-parent , or any other reason. It would be a legally arguable position that child support could also not be reduced if there were a change in custody of the children affected.

The provision which establishes the right to proceed in paternity cases " without the alleged father " [28] , is a dangerous Constitutional question to consider. What constitutes the alleged father's refusal to "co-operate" and who determines if he has refused to co-operate pose grave problems. Some argue that it is safe to assume that all males are unco-operative, and therefore no male should ever be notified of a pending paternity action.

Our society is in the midst of a cultural revolution, and the feminist movement has bombarded our society with demands for sexual liberation of the female. This special interest regards as a basic right, the right of a woman to freely engage in sexual activity. Our society dictates that a male cannot have sexual contact with a female without her consent. If he does, it is called rape. Our society also dictates that the entire question of reproduction is solely vested in the hands of the woman. Reproductive rights is a question where the feminist special interest has been quite clear that the male is completely without voice or legal standing. In such circumstances is it reasonable to continue to apply a standard of responsibility to the male that is a lop-sided as it is, when fundamental factors which assume a superior responsibility upon the male have been dramaticly altered since the concept was envisioned ? We think not ! Today, since Roe v. Wade , the woman has an alternative not offered to the male. The concept of sexual promiscuity is no longer in our lexicon. The Supreme Court has ruled that a male cannot be raped, and in a Colorado case ruled that an adult female cannot be charged with statutory rape or lewd conduct with a male child, as such sexual contact "contributes to his sex education" . Also, the male infant could conceiveably be required to pay child support if the adult female became pregnant. In legal terminology we have passed the threshhold of Reductio ad absurdam".

If I might digress for a moment; there have been great pains taken to propagandize the subject at hand. Certainly it is not difficult to detect the ominous presence of prejudice created as the result of this campaign of disinformation in these proceedings. Page one of the staff report continually refers to the male parent as "deserting" and "abandoning" his children. There is a fact crying out to be heard, and forgive me if I indulge my own sense of outrage at the cunning twisting of truth we have endured far too long. The simple truth is that such allegations are rubbish ! Every year in America Millions of ex-parte temporary restraining Orders are issued by Courts across America. In scene after millions of scenes in America , burly Sheriff's deputies come to the homes of these men and forcibly eject them from their hearth and home. Hundreds of thousands of men are ejected from their homes literally at gunpoint. It seems that by the definition of the special interests these fathers have abandoned their families even if we have to convince them they have by force of arms.

While I am certain that the special interests will clamour in response that these orders are secured to protect the life and limb of the victimized female spouses of America, I would again point out that in over 85% of the cases the restraints imposed proved to be without foundation or need. A very great many such men bewildered by their experiences react with rancor. I would go on record as saying that few of these men deserve the treatment they receive, and that the anger produced sets the stage for their unwillingness to co-operate with a system where the cards are stacked in such a one sided fashion. In point of fact, the marriage contract , and it is a contract by legal definition, is the only contract in America which can be breached by one party, and then provides that that party can seek retribution against the injured party, which is universally condoned because our society has so thoroughly accepted the villainization of the male gender. Scores of hundreds of thousands of men have been stripped of ancestral homesteads and inheritances . Countless men have been stripped of all of the fruits of their labors, only to find others enjoying the fruits of those labors. It goes down hard indeed . If you cannot understand the rancor of these men you lack basic human sensitivity.

I referred recently to perjury being an artform in domestic relations courtrooms. False affidavits filed in domestic relations cases are for all practical purposes never prosecuted for the perjury they represent. The divorce court sanctifies revenge against the male, no, it really demands it!

It would be incredibly naive for us to ignore in this discussion a fundamental change in the structure of American society with regard to the extreme casual nature of sexual intimacy between persons today. The conventions accepted by our grandparents no longer have application, despite our desperate attempt to cling onto half of them. The half that imposes unique responsibilities on the male, at the same time rejecting traditional responsibility for the female. [29] Failure to recognize these changes places Congress in the position of believing it has the power to repeal the law of gravity. The current situation provides many women with a convenient scapegoat. The feminist movement has proven itself to be masterful in the art of scapegoating. It is a luxuriant fantasy to view the female as the "damsel in distress" and all of our male emotions are to be rescuers. We are betrayed by our own sense of machismo.

We are only beginning to pay attention to some harsh realities in our society. We are beginning to see an openness about women choosing to become pregnant as a means of economic livelihood. There are those who deny this, but accounts of women who boldly admit to such an intent , and claim such as a "right" are becoming more frequent in the media.

We are left unimpressed that the subject of child support enforcement has been used as camouflage to conceal the issue of spousal support [alimony] within the pending legislation. [30] Piggy-backing alimony to child support in a surreptitious manner makes it hard to regard the pending legislation as forthright attempts to redress legitimate problems. The emotional impact of problems with child support enforcement is being used as a smokescreen to hide the alimony and palimony issues.

On the subject of obtaining some equity for the fathers in the form of visitation enforcement mechanisms we have listened to Representative Schroeder either vehemently reject the issue, or rapidly change the subject, refusing to deal with it openly and honestly. Representative Schroeder has maintained that the subject of visitation , and the subject of child support enforcement are mutually exclusive issues inappropriate for discussion together. [31] We find Representative Schroeder's position intellectually dishonest in that while she can see the appropriateness of piggy-backing a spousal issue such as alimony in a parent-child issue (child support) , she claims that visitation is inappropriate to the discussion even though both child support and visitation are parent-child related and alimony clearly is not. Child support is an obligation for the material needs of a child, visitation is an obligation for the more important emotional support of a child. The motive to isolate the issue we view as less than having honorable motives.

S 1691 provides a statutory impediment to reduction in child support once set. [32] Such a provision is nakedly unreasonable. In S 1777 a provision is made to establish a " minimum subsistence level" ordered for child support. [33] In the case of large families this will in most cases be unworkable. A simple truth is that the affluent simply do not have large families , and that large families are endemic to the poorest American families. There are many families with nine or more children, and simple arithmetic makes such a division mathematically impossible. This would have the effect of creating a situation whereby the fathers would of necessity be placed in a situation of involuntarily becoming criminals.

S 1777 and the other bills provide that quasi-judicial and administrative proceedures for determining obligations for child support have the same force and effect as judicial determinations [34] might be acceptable if it were not for language which limits appeals only to the custodial parent. [35] We also find the provision mandating collection of child support irrespective of the residence (location) of the child to be unacceptable. [36] As indicated in our table of statistics, the incidence of recalcitrant mothers arbitrarily removing the children from the marital community is frequent. [37] Laws which protect against abuses in this area such as Wisconsin's § 767.245 [6] would be nullified, and the meager assurance of a continued father-child relationship outlawed . We note that this is a high priority agenda item for the special interests who have been disturbed that we have suceeded in almost a dozen states in securing this fragmentary protection of the father-child relationship. These laws allow for consideration of the removal of the children in an arbitrary manner by the courts, and provide that child support may be reduced if it can be shown to have been with malicious intent. Those laws also provide for an offset for the increased costs in long distance visitation.

We find the descriptions of S. 1398, H.R. 817, and H.R. 1488 to be objectionable from the limited information available in the staff report. We find H.R. 1014 establishing a commission to study why the problems in child support collection exist a laudable concept, however moot the study is in view of the present legislation under discussion today. We would think Congress would find it wise to include on that panel representatives of the population groups directly affected by the study.

The provisions outlawing the discharge in bankruptcy of debts arising from separation and divorce is unwise. We would warn that this provision is likely to have an effect not considered by its framers. As it is worded, the clause is prohibitive of all debts arising from divorce. Almost all American divorce decrees provide for the award of " all items of property in his or her possession and responsibility for the debts thereon". This is likely to place an unfair burden on many women who could not then free themselves from the debts of spendthrift husbands. The intent , we are aware, is to preclude the discharge in bankruptcy of child support and alimony arrearages. Bankruptcy courts have never, to my knowledge allowed discharge of child support, and in modern history have allowed discharge of only a handful of alimony arrearages. The need for this provision is dubious at best. It seems to be based more on an irrational fear of potential escape than upon any proven experiencial need.

As I said previously, the concept of Alimony is one whose time hopefully is long past. An attempt to ressurect the corpse of alimony makes about as much sense in today's "liberated" society as an attempt to give oral resuscitation to a dinosaur fossil at the Smithsonian. The day of the male as "primary breadwinner" and the single income family we can now safely mourn. Alimony is a clear sign of the economic dependence of women on men. I find the feminist attempt to resurrect it incredible in view of their stated goals of independence for women and the political rhetoric of the gender gap. It speaks of a logic gap ! A great many men in America regard alimony as little more than a legitimatized delayed prostitution fee.

As I also have said, I have witnessed many cases where alimony has been concealed within child support payments. Child support should be limited to just that, child support, and inclusion of the mother's needs is out of line.

We again propose that there be included an adequate mechanism to the proposed legislation providing for the States to require custodial parents receiving periodic child support payments to provide a sworn accounting for disbursement of such funds, and for penalties for conversion of child support to other purposes. Assurance that child support is strictly for the benefit and support of the child would go a great distance in reducing collection problems in our experience.

The resistance to discussion of accountability for the disbursement of child support funds has proven most curious. Discussion of the subject begins with the allegation that the concept is another form of male control and harassment of the female. In truth such arguementation is a fallacious smokescreen from those who have a great deal to hide. An even rudimentary examination of the incidence of child neglect cases provides more than ample justification for such a provision. It is a thoroughly reasonable request. We would go so far as to agree to the requirement that probable cause must be shown prior to a requirement for an accounting. Complaints of misappropriation of child support are common, and if nothing else , accepting the feminist logic, one more excuse would thusly be removed, enhancing collection of child support.

Many fathers use non-payment of child support to gain the attention of an otherwise unresponsive system. [39] Whether these men are right or wrong is beside the point. It is a question of whether a man, obligated to provide a substantial portion of his income, has any right to be reassured that those funds are actually being used for the purposes for which he intends them. The refusal to hear this message is fertile breeding ground for the mistrust that is behind resistence to child support payment.

The fact of the incidence of out-of-wedlock births has become a significant problem in America. [40] It is our understanding that the bulk of unpaid child support arises from unwed births. The incidence where women have had illegitamate children by several different men is far from uncommon. This may be an embarassment the special interests are unwilling to acknowledge, but their embarassment will not change the facts. The existence of the "gold-digger" has been with us for a long time. Some gold-diggers have lower sights than others, some only seek to exist. There are many misguided young women who see pregnancy as gainful employment, and a "free ride" through life . Our society has created this psychological dependency, and further subsidies will do little to discourage it. If society wishes to encourage this dependency, and the cavalier attitude toward sexuality and reproduction, then society must accept the burden. [41] This will continue to assure hundreds of thousands of such births and the view of children as a form of currency. In such an atmosphere parental love for the child is unlikely to be nurtured, and child abuse and neglect will be epedemic, which it is.

The organization I represent would like to go on record as deploring the political rhetoric in the current debate utilizing child support as a smokescreen for the "Women's Economic Equity Act". Inclusion of alimony and obtaining Federal entitlement to an advantage in property settlements in divorce cases for women clearly comes across as the major objective of this legislation. A secondary purpose is to obtain Federal tools with which to extract punishment on the male gender for the perceived suffering of women at male hands. We do not see anywhere in the pending legislation any serious addressing of the broad spectrum of children's rights. We do hear the thundering din of the jackboots of a radical element in our society which claims to represent all women, but fails even in that regard. The euphemisms which give lip service to being in children's interest have a hollow ring to them. The greedy motive of the selfish special interests is often nauseating, and hiding behind the children we find inexcusable. We ask why the resistance to adding protection for the child's right to associate with both parents is so bitterly resisted ? Why is the simple and reasonable request for accounting of the disbursement of child support met with such violent opposition ? Why are measures sought which fly in the face of due process considerations ? Why is there the fanatic demand that the appeals process be abolished and that States be precluded from reducing even outrageous support awards ? The real objective is not to protect child support, a perfunctory reading clearly reveals that the important objective is to make alimony and property divisions favoring women legally unassailable. This is no noble cause. Equity yes ! But what is sought here is tyranny !

I cannot help but note that in the past several years funds earmarked by congress for programs in child abuse have been diverted almost entirely to women's programs. There is no remourse for the pilfering of these funds, but euphemisms, platitudes, and rationalizations. In our opinion this money was nakedly stolen from America's children by greedy special interests who do not really give a tinkers damn for the children. Children are a political shield that is easily used to obtain the hidden objectives of those who seek self aggrandizement and enrichment. "Ripping-off" the children is the subject of considerable humor within the circles of the special interest. What they laugh about most is that the "simpletons in Washington let them get away with it" . Fear of what is perceived as a powerful political force keeps many voices silent. Fear of the "Gender gap" has many politicians cowering in corners trembling. We have no illusions, we know that this legislation will pass. There is no hope of preventing it. There is no hope of protecting children and constructing a mechanism truly for them, but at least we will raise our voice in protest. We are certainly destined to be unpopular for the stand.

The vocal special interest behind the current legislative push is not only demanding a free meal, having their cake and eating it too, but they are demanding that the meal be cooked for them and the kitchen cleaned up afterward.

I would offer another case in point. There is the example of Mr. Scott Parker of La Crescent, Minnesota , who in 1981 had had custody of his children for approximately 10 years. True to form he was not receiving child support from his former wife. After a long absence, the mother reappeared in the vicinity. Mr. Parker's daughter expressed an interest in visiting with her mother. While Mr. Parker was not thrilled with the situation, he bent to the needs of his child to know her mother. Within one hour of the start of the 4 week summer visit, the mother applied for and was granted AFDC. Within 3 days Mr. Parker was served by the local Sheriff with documents requiring him to pay her child support for the visitation period, and to reimburse the state of Minnesota for the AFDC payments. Parker, at one time disabled through a work related injury had been denied AFDC because he was male. This is not the only incident of the State of Minnesota awarding AFDC and child support through an "administrative process" for visitation. Such awards have been granted for periods of even a fraction of a week to women. [42] In this case Parker was threatened with arrest if he didn't "pay-up". I would point out that in Minnesota policy, fathers are not allowed even a partial reduction in child support during their summer visitation period.

I am attaching as an exhibit a letter to me from Bernard Stumbras of the Wisconsin Division of Economic Assistance (child support enforcement) written in 1981 pertaining to a new child support formula. [43] I draw your attention to paragraph 2 of page 2 of his letter. According to Stumbras, who claims to be in a position to know, 95% of Wisconsin child custody awards are to women. He continues on to state that Wisconsin Courts grant these mothers child support in less than 50% of the cases. His statement is obviously false. He refers in his letter to "this scandalous record of paternal non-support" . He embarks upon an elaborate rationalization for a Delaware child support formula, complete with all of its mathematical anomalies. His enthusiasm for this confiscatory formula literally gushes from his typewriter. His motives for embelishing the facts remain mysterious. Perhaps he needs a feeling of superiority.

The extent of the hostility toward fathers in America is obvious to anyone who looks. In recent years there has been a trend bowing to the need of the extreme elements of feminism to hold the father-child relationship for ransom, and to complete female ownership of children. Feminist special interests have embarked upon campaigns to win the right for women to remove the father's name from birth certificates upon divorce, and to give the children their maiden name . This effort has been successful in several states, most notably California. [44] This event, coupled with dominance over every aspect of the father-child relationship, even the basic power to determine IF there will be any such relationship is part of an over-all objective. It is an objective we submit that fails to recognize children as independent human beings, but subconsciously clings to a concept of children as an extension of the woman's body. In this conceptualization, any act may be justified, no matter how grotesque. We would also submit that to the father, so powerless , having children he has no right to communicate with, who are taught to revile him, and now who do not even bear his name, asking for him to make the intellectual connection with a feeling of responsibility for the support of that child is ludicrous. Women have clearly demanded that their exclusive property rights to dominate and control children under any and all circumstances even to the point of determining termination of life after natal delivery. They have reacted violently to even the meager 4% of child custody awards to fathers, and under the umbrella of the Legal Services Corporation have organized formidable lobbying groups. [45] Their demands are all inclusive. They completely reject that there is ever any basis for depriving a woman of her children. Even child abuse and the murder of one or more children is not recognized as valid justification for allowing a father even token contact with his child. How then they manage the perverse concept of child support obligation is bewildering.

When we confront the abuse of children by these women, we are co[illegible]ually responded to with the euphemism that these are "isolated examples", but statisticly 67% of child abuse is made up of these isolated examples. Documentation of case upon case where fathers have lost custody battles following the murder of children is available. [46] This self envisioned saintly special interest cannot accept the existence of any imperfection in their midst. Discussion of the existence of their short commings is met with rampant paranoia.

I will relate another "horror story" or "isolated incident" to further make my point. This is a story of a Wisconsin Dentist, relatively successful with five clinics in operation . When he could no longer deal with his wife's spending habits and ugly disposition , his nerves shattered, he filed for divorce and went into the hospital. The property division was simple, as they usually are for men. His wife got custody of the children, was there ever any doubt, she also was awarded the couple's $250,000 5 bedroom 5 bath home complete with olympic size swimming pool. Oddly, she was also awarded the 5 dental clinics. In less than 3 months, she managed to alienate the employees of the clinics and the staff quit en-masse. She was initially awarded $1000 a month in child support, but with the failure of her clinics, the judge decided this would just not be enough to keep her in the style to which she had become accustomed. Child support was raised to $2000 a month. Three years later, Richard, not having been allowed to see his children by his former wife, decided, in desperation , to sneak at least a fleeting glimpse of them at church services prior to Christmas. At this point he was a total of $600 in arrears in child support, despite the fact that the nervous tremor in his hands prevented dentistry, and he had been reduced to working as a pharmacist earning $800 a month gross. There were several contempt proceedings as he fell behind in support and borrowed money from family and banks to keep out of jail.

Not being one to forgo her trips to Monaco every year, his former wife upon spotting him at the church, slipped out and phoned the Sheriff to execute the ex-parte arrest warrant her attorney had secured. As church services ended, Richard was greeted by Sheriff's deputies who handcuffed him and took him off to jail in the full view of his children, while his former wife exclaimed to the children, "there , the no-good bastard is getting what he deserves". [47]

Since the divorce in 1978 Richard has had only a few hours with his children. Since 1978, child support awards have increased from $1000 a month to $3500 a month (overturned by the Wisconsin Court of Appeals 4 times) and there is currently a demand for over $4000 a month child support for the 5 children. The poor underprivelidged mother has been forced onto welfare occasionally when Richard's line of credit is strained. She remains at home practicing on a $35,000 Steinway Grand piano in her living room. Richard, now back in dentistry still does not earn gross what he is ordered to pay in child support. He still does not see his children.

To the point of Richard's arrest he had paid $44,000 in child support for his children. Richard has attempted to enforce his visitation with his children on numerous occasions. Each such attempt is rewarded with a substantial hike in child support. One Judge referred to Richard as a "cry-baby" . The mother drives a 1983 model automobile. Richard's 1974 Fiat last year lost its transmission due to rust. It quite literally fell off the automobile in the middle of the street. He now drives a luxurious second-hand Volkswagen. Mother recently needed a respit from all of her pressures of daily life, and took an escorted tour of southern France. Richard lives in a one room apartment (rented by the week) on National Avenue in Milwaukee . The neighborhood is not populated by Milwaukee's moneyed class.

The five children have all developed an extremely negative attitude toward their father. Constantly they are subjected to harrangues by their mother which sometimes last for hours , about her troubles obtaining child support. When Richard has tried to show them receipts to prove that he is paying support, the children have spat upon him. To this date he has paid in excess of $100,000 in child support. Richard's wife is one of those who returned the Department of Census form bitterly complaining that she is not receiving the support to which she is entitled.

The special interests continue to paint a picture of the divorced father driving Jaguars and Corvettes, dapper men with pipes and a young blonde on each arm, basking in limitless sexual exploits. With a little effort you can visit places like the Plaza Motor Hotel in Milwaukee or any number of similar facilities providing furnished rooms. Most are populated with these supposedly affluent divorced dads. There are many men who have an intimate familiarity with Campbell's Soup cans, not from Andy Warhol's paintings but from one sitting next to the hot plate as their evening meal. The picture of the sporting life in a new Corvette is rather convenient for the special interest to paint for you, but I assure you that it bears little resemblence to reality.

A classic example of this situation is a letter from the Michigan Friend of the Court's office to one father who was trying to see his children. The solution offered in this letter is typical of the attitude across America. [48]

On rare occasions our hearts are warmed when we learn of the come-uppance of one of the petty despots within the socio-legal system. This was the case with a Chicago area Judge who was sexually intimate with a female litigant in his courtroom. He eventually married the woman. His downfall came when she decided she would also divorce him. [49] Such was also the case when the child support clerk in Waukesha, Wisconsin was found to have embezzled over $114,000 in child support collections, much of which was carried on the county books as arrearages. [50] Uncommon ? Uncommon that they are caught, but these are not the first examples of bureaucratic crooks being caught.

The extent to which these petty despots will go is illustrated by a Tampa, Florida case where a Judge not even involved in the case, railroaded a father trying to make a child support payment into jail. [51] An isolated example? Perhaps ! Isolated only in that this Judge ran down the hallways screaming like a madman . But the extra-judicial effort is hardly unique.

More than 70% of unwed dads never see their children. Some because they don't want to. Their commitment to the mother was brief bodily gratification, a function not dissimilar to voiding. This hardly sets the stage for acceptance of an 18 year financial commitment. Of the 30% who do get to see their children, most of them are allowed only a distant relationship.

I would like to paint a glowing picture of a socio-legal system that functions perfectly, one that humms like fine tuned machinery. I'd like to paint the picture of a utopian democracy. I'd like to say that the "night court" sessions for female litigants with the Judges don't exist. I would like to suggest that sex between female divorce litigants and their lawyers never happens. I would like to say all of these things, but I would be lying if I did. A few years ago the Oregon Bar Association elevated the sexual exploitation of female clients to a Bar sacrament, ruling that this was not unethical. [52] The sexual services provided by the female litigant provides her with almost limitless legal assistance at no charge. Perhaps someday female lawyers will begin providing similar arrangements for male litigants. In short, the ruling of the Oregon Bar simply confirms to most men their worst suspicions, that being that the Courthouse is in reality a "whorehouse" .

At times my choice of words has made my statements seem quite harsh. As strong as my statements may seem, they do not even approach the anger held by a vast number of men in America. The scapegoating of the male gender by the radical feminists grows tiresome. [53] We recognize that the male gender can hardly hold out its record in child support and point to it with pride, as we cannot look at the problem of rape and feel proud. A profound difference between our movement and the radical elements of feminism, has been our willingness to view ourselves with some realism. We are anxious to see a system developed which will really cure the problem. We do not believe the current legislation is intended to cure it, but rather to create a situation which will justify continued villification of the male gender, and perhaps harsher and more punative legislation to follow. The suggestions we have made, were presented in good faith. The current political climate is one in which we fear they cannot be heard above the voices of emotionalism and manipulation. Our organization does not condone or advocate withholding of child support. We stand firm in our position that a father should be allowed to be more than a mere monthly check in the mail. We reject completely the agenda of radical feminism , and the threadbare notion of years gone by, that children are property belonging to one parent. It is our firm belief that children belong to no-one but themselves. It is our belief that most men would willingly support their children if the State did not interpose itself in such a cavalier fashion (in loco parentis) and treat the father far worse than it does mass murderers.

The items we have requested are modest and fair. The radical special interests will oppose them because they do not enhance their power of retribution. Those of you who dare to support any of our proposals will find yourself on their enemies list" . There is abroad in our nation the belief that fathers are not nurturant parents to their children. I believe my three daughters would put that notion to the lie it is. I know my testimony is very much like trying to throw sand on an Atomic explosion in the hope of putting out the fire. But at least I have said what needed to be spoken, just once for history to record. At least one voice was raised. While it is pointless, the name calling which will follow will not surprise us in the least. Thank you !

Kenneth R. Pangborn
President.

STATEMENT OF MARTIN HOCHBAUM, PH. D., DIRECTOR, NATIONAL COMMISSION ON URBAN AFFAIRS, AMERICAN JEWISH CONGRESS, NEW YORK, N.Y.

Mr. HOCHBAUM. Thank you, Mr. Chairman.

On behalf of the American Jewish Congress, I would like to address 5 points very quickly.

In general, we take the position that H.R. 4325 is the preferable piece of legislation compared to S. 1691. Because of the time limitation, I am going to make some very brief comments.

We favor the existing Federal reimbursement formula of 70-percent Federal reimbursement instead of the reduction to 60 percent.

We also like the formula under which wage withholding would begin after 1 month of arrearages. We do not believe that the 2 months is practical; it leads to many problems with the custodial parent, and, in the long run, it also makes it more difficult for the parent who has failed to pay to come up with the required money, including back payments.

Third, we think there should be a mandated State income tax refund intercept.

Fourth, we take the same position on a Federal income tax refund intercept,

Lastly, we believe that the current compliance language should be allowed to stand and should not be changed to "substantial compliance." We believe that the current language that is "operate a child support program in conformity with such a plan" is the preferable language.

In summary, we believe that H.R. 4325 is the preferable child support enforcement bill and that it would be more effective than the other proposal in making sure that child support payments are met.

Thank you, Mr. Chairman

[Mr. Hochbaum's prepared statement follows:]

STATEMENT

of the

AMERICAN JEWISH CONGRESS

for the

Public Hearings

on

CHILD SUPPORT ENFORCEMENT

Presented to the

Subcommittee on Health

of the

Senate Committee on Finance

Introduction

The American Jewish Congress, a national membership organization of American Jews, welcomes this opportunity to present its views on pending child support enforcement legislation. Prior to discussing proposed amendments, we would like to review the background to our concern with this subject.

The last few decades have produced major changes in our family structure. More than one out of six children born today are born out of wedlock and more than one million American marriages are annually dissolved. Nearly eight million children are being raised in single parent households. Projections for the 1990's indicate that nine out of twenty children will not spend their entire childhood with both natural parents.

These changes mean that more women and their children than ever will be dependent on child support for part of their family income. Unfortunately for many of these people, the delinquency in child support payments will leave them in poverty.

The statistics in this area are startling. According to the Census Bureau, in 1981, custodial parents in 53 percent of cases did not receive the full amount of court-ordered child support payments. In more than one out of four cases, no payments were received and close to $4 billion, of $10 billion owed, was uncollected.

The failure to collect child support often sets the poverty cycle going and is a direct contributor to the "feminization of poverty." In 1980, female headed households totaled more than 25 percent of the poverty population.

Changes in the family structure of American society are reflected in changes in the Jewish community. Comprehensive national data on the number of Jewish single parent households is lacking. However, based on reports by local Jewish agencies, it is clear that their number is large and growing.

The growth in the dissolution of Jewish marriages has changed the nature of the Jewish community's needy population. Historically, the Jewish poor and near-poor were predominantly older, foreign born people who worked at low-paying jobs and lacked adequate retirement income. Increasingly, poor Jews are likely to be female headed households that include one or two children who are receiving little or no child support payments.

Proposals

In 1974, the Committee on Finance played a major role in initiating the child support enforcement program. At that time the Committee reported, "the enforcement of child support obligations is not an area of jurisprudence about which this country can be proud."

Since its implementation in 1975, the child support enforcement program has grown. In fiscal year 1976, $512 million were collected; nearly $1.8 billion were collected by fiscal year 1982. Through that year, total child support collection figures were $8.8 billion of which $3.8 billion was for families receiving AFDC and $5.0 billion for non-AFDC families.

The impact of this legislation can be measured in other ways. In 1982, paternity was established in nearly 175,000 cases; 782,000 parents were located, and support orders were issued in 468,000 cases. Child support enforcement collections also succeeded in removing 32,000 families from the AFDC case rolls.

Clearly, over the last few years we have seen improvements in the child support enforcement area. Nevertheless, strengthening the child support enforcement program, an effort that must be made for all families, not just those on public assistance, could make this program even more effective.

Cur comments on pending proposals are limited to H.R. 4325 and S. 1691. In general, AJCongress favors the adoption of H.R. 4325, a proposal which we endorsed when it was pending in the House. We take this position because we believe this proposal would be most likely to ensure the prompt payment of child support.

More specifically, we would like to offer comments on the following areas:

a) Reimbursement costs;
b) Timely payments;
c) State income tax refund intercept;
d) Federal income tax refund intercept;
e) Review of effectiveness of state programs.

A. Reimbursement Costs

On an open-ended entitlement basis, the Federal government reimburses 70 percent of state administrative costs for services to both AFDC and non-AFDC families (this figure was reduced from 75 percent by the Tax Equity and Fiscal Responsibility Act of 1982). The 70 percent figure would be maintained by H.R. 4325; S. 1691 would reduce it to 60 percent.

AJCongress believes that the 70 percent figure should be allowed to stand. A decrease in this level of Federal support would discourage the maximum feasible cooperation of state and local government in this program. It would also signal the heads of single parent families of a declining Federal interest in child support enforcement programs.

B. Timely Payments

Timely payments are necessary to ensure that single parent families avoid economic hardship, including the accumulation of substantial debts, and psychological stress.

S. 1691 would require states to implement mandatory withholding no later than the point at which an arrearage of two months support has occurred. Under H.R. 4325, withholding would be mandated after a one month delay in child support payments.

AJCongress believes that the automatic, mandatory wage withholding provision in the House version would provide better protection to children and their families. Waiting two months before such withholding begins, would only exacerbate the financial vulnerability of single parent familes. Moreover, the accumulation of a large amount of overdue support may strain or destroy the non-custodial parent's ability to pay his arrearages.

H.R. 4325 would require that "withholding is to begin within no more than 30 days after the" obligor parent has been informed that his delinquency has led to the initiation of withholding proceedings. AJCongress believes that the stipulation of a particular period in which objections must be settled would be useful in facilitating the implementation of this section.

C. State Income Tax Refund Intercept

H.R. 4325 would require states, at the request of the State IV-D agency, to withhold from tax refunds support owed to an AFDC child, or, as decided by the states, any child receiving IV-D services. The obligor must receive prior notice of the intercept and of procedures to contest it. The state will distribute the amount withheld to the family, where it is not in receipt of AFDC, and retain the money if the past due support is owed to an AFDC family.

AJCongress urges this Committee not to limit the mandated tax refund intercept to public assistance families. From an administrative perspective, this should be relatively simple to accomplish since the intercept mechanism will already be in place. Surely, Federal policy should not encourage this distinction between AFDC and non-AFDC families.

D. Federal Income Tax Refund Intercept

Under the child support collection programs, the Internal Revenue Service has intercepted over 300,000 tax refund checks of delinquent fathers amounting to more than $170 million. AJCongress recommends that this procedure, with appropriate due process safeguards, be extended to non-AFDC families. Again, this recommendation should be relatively easy to implement since the intercept mechanism is already in place.

E. Review of Effectiveness of State Programs

H.R. 4325 and S. 1691 would both eliminate the requirement to "operate a child support program in conformity with such plan" and would replace this language with the requirement that a state's "program substantially complies with the requirements of this part."

AJCongress is opposed to the proposed change because it would weaken mandated compliance standards. The proposed language would make much more difficult the likelihood of success of lawsuits initiated to seek compliance. States would, therefore, be sorely tempted to continue ineffective programs since they would be less likely to suffer financial damages.

Conclusion

In summary, AJCongress believes that the child support enforcement legislation must be strengthened. The failure to do so will encourage the continuation of the present situation where so many single family parents do not receive the payments to which they are entitled.

We believe that H.R. 4325 is the preferable child support enforcement proposal and that it would be more effective than other bills in ensuring the prompt payment of child support payments. We, therefore, urge this Committee to endorse H.R. 4325.

Respectfully submitted:

Martin Hochbaum, Ph.D., Director
Commission on Urban Affairs
American Jewish Congress

Senator **Long**. Thank you very much.

Are there any questions? Senator Grassley?

Senator **Grassley**. Mr. Pangborn, while I was out my staff heard your testimony in support of immediate withholding. I would like to discuss a similar enforcement provision in my bill S. 1708, dealing with the income tax refund offset on behalf of non-AFDC families. It would limit the State's responsibility to the amount of withholding to past-due support which accrued on or after the date on which the case was filed with the State agency. It would also provide for a unobligated spouse married to a non-custodial parent to have an opportunity to claim that her portion of the offset would not go for child support. What are your feelings about the offset being used in the case of non-AFDC?

Mr. **Pangborn**. I believe that generally we would favor that as a provision. As long as the due process considerations are observed, our position is to encourage the payment of support. And if it takes that method to do it, we would be in favor of it.

Senator **Grassley**. Do either one of the other two witnesses want to comment on that question?

Ms. **Mallett**. We would agree, also, that the non-AFDC should have access to it.

Senator **Grassley**. I have heard one comment from both men and women that an individual should be allowed to decrease their support obligations based on the needs of a second family. Of course, we can all sympathize with some circumstances being beyond the control of individuals, such as unemployment, but do you feel it is appropriate to allow a parent to lessen his or her obligation to the original or "first" family because of their choice to start or to adopt a new family? In other words, where one of the partners has remarried and then has their new family, they could argue that because of the obligations they have to their own family they could not meet their original obligations.

Mr. **Pangborn**. Senator, that is an extremely complicated issue that I don't think the timeframe we have here today will permit very much meaningful discussion of.

There is a serious conflict between first and second family, and the fundamental question is, should we allow for the second families?

At one time, the State of Wisconsin, among several other States, took a statutory position regarding the right of the divorced father to remarry, which the Supreme Court addressed and ruled as unconstitutional.

I think certainly there is an obligation to the first family, but I do not think that that obligation to the first family should preclude the right to begin a second family.

Senator **Grassley**. Are there any additional comments from the others on the panel?

Mr. **Hochbaum**. My wife asked me that question this morning, sir, and, in all frankness, we weren't able to come to a conclusion on it.

Senator **Grassley**. That's grass-roots input.

Ms. **Mallett**. Dealing with our organization, which of course are single parents and the very people we are talking about, our organization represents both the male and the female point of view—

the father and the mother. You know, which one is responsible for the child? And incomes fluctuate, responsibilities change, standard of living changes. I think I would have to go along with my counterpart here, that perhaps we need a standard level of determining what is a person's obligation to the child and have that consistent, and if a person chooses to marry again, that standard of living for the children would certainly change depending on the income potential of that new family. But it doesn't diminish the father's responsibility or the mother's responsibility, if the father has custody, on what is their contribution to the child.

I am a divorced mother, and I want preservation of a relationship between the father and the child, even though I am the custodian of that child, so that that child knows that her father cares and is supporting her. Even if I choose to remarry and our standard of living is different, why should she not know that her father still supports her, takes care of her?

Senator LONG. If I might just interject there.

It seems to me that if the father has let's say three children in a first marriage and then three children in a second marriage, they are still all his children. He has an obligation to contribute to the support of all of them. And the fact that he has more children in a second marriage does not excuse him from his prior obligation. You would have to take all his obligations into account, and I'm sure the court would take them into account. All his children have to eat, and they all have to have clothes, and they all have to be kept warm in the wintertime. I think it is understood that his obligation is there to support the children.

There may be some in some religious orders who would take issue with me, but I would like to think both fathers as well as mothers realize that in addition to having the potential to produce children, they also have the potential to control that talent. So, fathers, just like mothers, should be able to pace themselves and think in terms of how many children they feel they can support. I may find myself at odds with some people, but I think that this is the prevailing view.

Mr. PANGBORN. Senator, if I may make one point, there are several States that make a provision in law—and I think a lot of Americans have some unrealistic expectations about divorce. In law, in talking about child support and determining child support levels, very frequently the state law says the child should be supported to the level he would have been supported if it had not been for the divorce.

We are going to have to realize that in the reality of the economy of the United States in 1984, that is an unrealistic expectation. There is going to be a substantial reduction in circumstances for everybody in the family.

I think the legislation we are talking about is trying to find some way to equalize. And as long as we are talking equalize versus unfair advantage, I think almost every American would support that kind of process. The thing that we become concerned about is when there is unfair advantage. And I think that a concern that may be inappropriate here today, but nevertheless should be raised, is the fact that 92 percent of the child custody awards in America are to mothers. For child support enforcement there are mechanisms, but the majority of the States, again, determine visitation as a privilege and not a right of the parent.

Somewhere along the line, because of the mobility in our society and the fact that a great percentage of these cases involve interstate questions, I know there is a sentiment in Congress that the question of visitation, et cetera, is inappropriate for the Federal forum, but it is going to have to be addressed, because we have parents on opposite ends of the country. In fact, it is coming to the point where in the majority of divorces either the father is fleeing a child support award and running to another State or the custodial parent takes the child to another State. Then we are looking at approximately 15 to 20 percent of our population where the child is in a different State from one or more of the parents.

Senator LONG. Thank you.

I would like to ask Senator Grassley to preside.

Senator GRASSLEY. Were you finished with your questioning?

Senator LONG. Yes.

Senator GRASSLEY. I would like to ask one more question before the panel leaves.

You are aware of the fact that the adminsitration has proposed quasi-judicial and administrative procedures to assist in child support determinations. Similar proposals are contained in my bill. In regard to those procedures, there are two basic considerations: One, whether or not you feel that there is any question of due process being fully protected; and, second, whether there is any fear that the new procedures may result in a kind of welfare organization within the judicial branch of government that could take on a life of its own.

Mr. PANGBORN. I would like to specifically reply to that. In our written testimony I think we devoted more space to that particular question than any other.

We find the use of an administrative or quasi-judicial process particularly repugnant. The only State that I am aware of that does apply such a process has been the State of New Jersey. The questions we have are: Who is going to be doing this? What are their qualifications for doing it? What are the potential resources to redress the excesses that have happened, such as happened in New Jersey?

There are many questions that are arising under that. In S. 1691, we had two specific provisions that gave us nightmarish concerns. We understand that that bill, for all practical purposes, is, if not dead, foundering and in serious difficulty.

The one concern was the provision that would prohibit the States from ever reducing child support, which could mean, it could be interpreted to mean by some judge, and not all judges are blessed with phenomenal intelligence, that child support could be continued for a child that had attained age 65.

And the provision that limited appeal of a child-support judgment only to the custodial parent, frankly, we feel strongly is unconstitutional.

As far as an expedited process, I think the process we would most favor is the one that is already in place in the State of Wisconsin through the Family Court Commissioners setup. It is a more judicial than quasi-judicial type of format, and it is designed, in the case of a child-support arrearage, so that a custodial parent may come into the office of the Family Court Commissioner and complete a form. At that point—and this is for enforcement purposes—that office completes the form and it is sent out for service, setting a hearing where both parties are unrepresented by counsel. It is a fairly informal procedure for enforcing the child support, and it has been fairly effective in many of the counties for working.

My concern is making an overly broad statute that doesn't define itself very well, because in my experience, going from various jurisdictions across the country in interstate child custody cases, the standards of practice vary so much from State to State and even within the State, even within the county, going from judge to judge—even hitting the judge on two different days. The majority of these decisions are almost exclusively within the discretion of the judge and how he feels that day; there are not precise instructions to the judiciary, telling him how to deal with these cases.

One of the early statements I wanted to make about this domestic relations legal system is that it is an abject and complete failure in the United States. And as evidence of that, Senators, I would offer our presence here today. It hasn't worked. It has failed the children of America miserably. That is why the children of divorce are attempting suicide at alarming rates in this country, drug and alcohol dependency has been at the heights it has, and 85 percent of our prison capacity is consumed by children of divorce. We have a problem "right here in River City," and we have not addressed, either in the States or on the Federal Government level, the problems that the American family is having I have heard a lot of political rhetoric, I have seen very little in things that are going to work in a practical sense to clean up the stench that is coming out of the domestic relations courtrooms of America.

Senator Grassley Because of the variation from one section of the country to another, or one jurisdiction to another, how would you feel about the Federal Government being very prescriptive in the requirements of the States as far as expedited procedures and administrative processes?

Mr. Pangborn. Senator, when the Supreme Court of the State of Utah issues as asinine pronouncement as they did to say that they will only consider a father equally for custody to a mother when men are capable of lactation, if that is the level of thinking on the State level, then I think the only answer is for the Federal Government to come in and make some sense out of this mess. I think the States are making the mess; they have shown a willingness and even an antagonism, as most of the women who have testified here to day, trying to get child support for starving children in many cases, can testify to. Yet, the court system just won't respond. It's its own little kingdom, imbibing itself in its own rituals, if you will, and not concerned with the human beings and the destruction of the American family that it has not only encouraged but demanded. It pits husband and wife, father and mother, against each other. And the adversarial system is—if we looked around for the worst way to answer this problem, we have found it.

Senator Grassley. For the record, since you mentioned New Jersey to a considerable extent as an example of a State with expedited procedures I would like to indicate that our research shows that about 13 States have some sort of administrative process, and 32 States have some type of quasi-judicial process. So, while there is a lack of uniformity, our information indicates there are a considerable number of States doing some experimentation in something other than a full court hearing

Mr. **Pangborn**. If the Federal Government could encourage that process, it would be greatly helpful to bring the standards of practice and understanding. You would be surprised at how many judges and lawyers still do not know that the Federal Kidnaping Prevention Act was passed or what it means. You tell the judge, in a case where there is an interstate custody dispute, and they say, "Well, this is not a Federal court." Even though the Federal Government in Public Law 96611 mandated certain things to the courts, they still haven't even read it, don't understand what it means or how to apply it.

Mr. **Hochbaum**. I think, Senator, that you would have to include a specific time framework within which these due-process requirements would have to be resolved. It could not just go on and on and on, while the custodial parent and the child are suffering or just sitting out there in limbo unable to plan in terms of what their future as a family will be like, or even in terms of the individual.

As to your first question about the welfare, I think historically most of the payments that have been gotten through the child care enforcement program have not been for AFDC; probably about 60 percent have been for non-AFDC. I don't believe that word "welfare" is so bad, so pejorative, so nefarious, so invidious, or anything along those lines. I don't believe that program should be viewed in that way, and I don't think that it should be tarnished in that way.

Ms. **Mallett**. What I wanted to add, too, for the record is that the State of Michigan has probably served as a model for other States, and could, in terms of your question, because we have the Friend of the Court system there.

I have gone through a divorce, and support payments, and questions, and arrearages, using that system. And I think it works quite well.

In dealing with those issues, even though they are difficult issues to deal with and sometimes do pit mothers and fathers against one another, I think the Friend of the Court system in the State of Michigan probably is one of the best. And in talking with members all over our organization who live in every State in this land, Michigan does seem to be one of the best. You might consider that in your original question

Senator **Grassley**. Thank you.

Senator Long, are we ready for the next panel?

Senator **Long**. Yes.

Senator **Grassley**. We want to thank you for your participation, and particularly for waiting for me to ask my questions.

I will now introduce the fifth panel, consisting of Alan Lebow, president, National Congress for Men, Southfield, Mich.; James A. Cook, president of the Joint Custody Association, Los Angeles, Calif.; and Danny Piper, founder of HELP—Help Encourage Loving Parents—of Burke, Va.

I would ask you to proceed in the manner in which I introduced you.

Mr. Lebow, would you proceed?

STATEMENT OF ALAN LEBOW, PRESIDENT, NATIONAL CONGRESS FOR MEN, SOUTHFIELD, MICH.

Mr. LEBOW. Thank you for the opportunity to participate in the democratic process. I just have a brief statement, which was directed to be given by me by our task force on parental responsibility.

I would like to say that I am the full-time Executive Director of Fathers for Equal Rights of Michigan and Canada, that I have court watched in 13 counties in the State of Michigan, and that as a divorced father of two daughters I have been to court 56 times over the last several years and have not seen my children in 6 years. So I am one of the statistics that Mr. Pangborn talked about.

The National Congress for Men fully supports vigorously all lawful court orders. H.R. 4325, as a vehicle for insuring such enforcement regarding domestic relation matters, is basically in harmony, therefore, with our beliefs.

The National Congress for Men would have drafted H.R. 4325 differently, and moreover, we would today suggest even more improvements than we have prepared. But we have admittedly entered the arena at a late hour. The intent, however, of this bill can hardly be challenged.

Representing a large share of the millions of Americans who would likely be affected by this bill, and clearly the majority of those who experience the trauma of unlawful denial of visitation, we humbly request this honorable body to consider the following two proposals:

First, the inclusion in H.R. 4325 of a requirement that the states enact a provision in their statutes regulating wage assignments, an option for payors to elect to establish a voluntary wage deduction into a nongovernment personal account with a regulated financial institution which is solely for disbursement to the court-ordered recipient.

Second, an addition of a qualifier in section 14(f), paragraph 3, page 37, that would simply include visitation enforcement as a prerequisite to the Secretary's determination for purposes of waiving the establishment of a commission.

The bill before you with these amendments would have a monumental positive impact on millions of men, women, and children. We are pleased to say that we heartily endorse passage of such a proposal.

Thank you.

[Prepared statement of Alan Lebow follows:]

MEMORANDUM

TO: Members of the U.S. Senate Finance Committee

FROM: Alan Lebow, President, National Congress for Men

DATE: January 20, 1984

SUBJECT: Testimony regarding H. 4325

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Senator **Grassley**. Mr. Cook?

STATEMENT OF JAMES A. COOK, PRESIDENT, THE JOINT CUSTODY ASSOCIATION, LOS ANGELES, CALIF.

Mr. **Cook**. I am James A. Cook, chairman of the National Congress for Men and president of the Joint Custody Association. In the interests of brevity, let me outline very quickly two main segments

You know, for about half of the single mothers with children, or some 41 percent, there are no court orders that anyone should be paying support. And within that group the largest single segment, that has tripled in the last decade, is the unmarried, never-married mother of a child who is unable or unwilling to identify the father.

However, the size of the overall problem has inspired some forced-collection techniques that I think are harshest on the other half of the problem, and that half are those men with wage-paying jobs, paying taxes, owning property, trying to save, remarried to a working taxpaying spouse. Now, unfortunately, wage assignment and tax refund confiscation overlooks all the other mechanisms that are already demonstrating better results of payment before recourse to wage assignment.

Now, in an earlier presentation which I have delivered to all of you, we listed some 32 techniques. Several are ranked by their demonstrated performance and I think should be aided and encouraged first before we go to the recourse of wage assignment, because of the reaction it will have on the affected public.

Among those, they include, first, joint custody, which has only a 6–7 percent rate of delinquency in all of the studies thus far and only one-half the rate of relitigation of support issues.

Second, 78 percent of the amount due is paid when agreements are mediated or voluntary, and the average paid is higher.

Third, statewide or region-wide support tables or formulas provide a better expectation of that which will be decreed and less incentive to litigate.

Fourth, assured and forcible specific visitation, the demand of the quid pro quo of enforced collection.

Of course I cannot go into the others of the 23. They are priority-ranked by their demonstrated performance. And I think in the interest of a wider acceptance of the idea of wage assignment, you have to show good faith concern about all of those other procedures that are demonstrating a better chance of getting the money paid.

Senator **Grassley**. Thank you.

Mr. Piper.

[Mr. Cook's prepared statement follows:]

Testimony

regarding child support enforcement legislation

by

James A. Cook

Chairman, National Congress for Men
and
President, The Joint Custody Association

I am James A. Cook.

I will be speaking for, and on behalf of child support. I will suggest proposals that will make the payment of child support more likely to occur, including concepts that will make an enforcement system more recognizeably just, humane and equitable.

I speak from my observation of activity within two separate organizations:

* The Joint Custody Association (of which I am the initiator and President), an organization of 1,500 individuals, about 30% of whom are professionals engaged in assuring statutes as well as case precedents that establish joint custody as a first-step preference for the children of divorce before resorting to severing a child into sole custody isolation.
* The National Congress for Men (of which I was the initial President and am now the Chairman), a linking network organization that serves as a focal point for the 285 men's, fathers' rights and divorce reform organizations with which we are in touch nationwide. We are not in competition with women nor demanding power over women as a mechanism of social change. We believe the problems confronted by men, in relationship with women, are rectifiable by continually attuning the political, judicial and social system toward that which is equitable and decent.

Separating and identifying the problem

In order to apply equitability, and logic, to that portion of the child support problem that is amenable to improvement, it is necessary to separate the problem of unpaid child support into manageable segments.

Much has been said about so-called unpaid child support in an effort to acquire political backing for punitive enforcement measures.

Before enacting such proposals, however, it is important to recognize that, for approximately 41% of the women with children under 21 years of age, there is no court order whatsoever that anyone, including the father, is responsible for paying child support.

Furthermore, a large segment of the child support problem is comprised of unmarried, never-married mothers. According to the child support enforcement program "the largest single factor accounting for the increase in AFDC rolls has been the increase in the number of families in which the parents were never married." (Approximately 1.1 million families; 641,000 Black and 406,000 Caucasian)

Generally, the punitive child support enforcement techniques now being proposed are largely ineffectual for such groups and, instead, the proposals tend to impose the most stringently upon the very segment of society which we should be striving to improve and maintain.

The disproportionate impact of punitive legislation

In the name of immediate action, predicated on large, all-inclusive statistics, and to satisfy political demand, the current legislative proposals impose the hardest on the desperate, marginally-employed, economically-struggling father who did honor his relationship with marriage, who has a residence, has been or is 'paying something', is salaried, who pays taxes, who has remarried an income-earning and tax-paying spouse, who seeks to save and bank money, has property and falls within all those conventional activities that are identifiable by the parent locator system.

Yet, the proposed legislation conveys an important anti-social message to such parents: you are unlikely to be entrapped if, instead, you don't marry, you live-off the cash economy, have no taxable income, retain no savings, own no property, live with someone also not earning traceable money, and avoid the conventional banking, telephone, postal, vehicle registration and organizational memberships that knit together a responsible society.

Throughout the broad middle-ground of those 'sometimes paying, sometimes not paying' parents is the disenfranchised, discouraged and exploited parent who has a lingering or intense interest in their children....it's a segment made up primarily of those individuals who did not necessarily initiate divorce and are resentful of the consequences.

Social movement, change and solution

Furthermore, two great social movements are going on, albeit seemingly on divergent paths, but suggesting solutions to the child support dilemma.

On the one hand is the increasing interest and respectibility in proclaiming oneself a father and participating in that responsibility through first-person, on-the-spot activity with ones child. This is one of the most socially-advantageous reassertions in America during the past decade. Such interest in fatherhood is not new in America; it is merely being restated, emphatically, as an honorable goal.

However, concurrently we have been experiencing during the same decade a striving for independence by women seeking other options and an avoidance...at least temporarily...of commitment.

In answer to this dichotomy, society is working-out a solution not reflected in the legislative bills you are considering but is reflected in scattered instances of state statute law. It is one of several solutions that is compiling the best statistical record of payment and satisfaction of child support payment of all the alternatives: that of a preference for joint custody before recourse to winner-take-all sole custody. Furthermore, the concept also satisfies the demand for equality of all parties that has identified much social legislation and judicial decisions of the past two decades.

Unfortunately, the proposed legislation appears to many as a throwback to a previous era: a single-issue, one-way-only, punitive, peevish and vindictive legislation that tends to put the sexes in opposition. Instead, we urge balanced enforcement.

Balanced, rational solutions

The proposed legislation does not reflect logic in prioritizing the most productive means of encouraging payment of child support and of removing a tax-supported bureacracy from this process.

Our proposals are prioritized to parallel thosemeasures which are already demonstrating the best success at voluntarily achieving child support payment.

1. For instance, the various state commissions should be directed to examine the potential in performance of child support payment to be found in state statute availability of a preference for joint custody before recourse to sole parent custody.

Every substantial survey study done thus far is demonstrating that the delinquency rate of child support payment is the lowest in joint custody situations: averaging only 6% - 7% delinquency, while also satisfying the demand for equality that characterizes other social legislation in America.

2. Furthermore, state commissions should similarly be directed to make available the modification of prior custody decrees to joint custody. Child support relitigation is the second largest volume of family law litigation in America today. However, joint custody cases are demonstrating as much as a 50% reduction in the volume of relitigation....a potential cost savings for our court systems as well as implying a relative level of satisfaction by such parents. Even in those cases wherein joint custody was decreed over the objections of one parent, the relitigation rate is less than that experienced by sole custody parents.

3. To decrease the unrealistic expectation of widely divergent child support amounts as a result of litigation, state commissions should be encouraged to consider statewide support schedules, formulas, tables and norms so that, in advance of divorce, the parents' expectation are more realistic, and to encourage the recourse of the following proposal.

4. Currently, the second most successful method of assuring payment of child support is that of the voluntary written agreement. The child support and alimony Census

report indicates that 78% of the amount due is paid, and that the average payment is higher than that ordinarily made nationwide, when agreements are voluntary. Hence, as an adjunct to statewide tables, state commissions should be encouraged to facilitate private or public mediation also encompassing decisions about child support.

5. Generalities are rare in topics of so much individual personal anguish and reaction as that of custody and support. But, the one generality that has emerged from the practice of District Attorney collectors in California is that, the longer a child is permitted to live-with the noncustodial parent before being excluded, and the more extensive that contact following birth and into the younger years, the more likely the excluded parent is to pay child support.

Hence, we request federal acknowledgment of making available so-called "visitation enforcement":

1. Assure availability of continuing visitation despite an out-of-state removal of children.
2. Assure the availability of specified parenting-time (visitation) with as much vigor of enforcement as that applied to the collection of child support.
3. Make the federal parent locator system available to noncustodial parents (as well as custodial parents) to determine the location of a child for whom support is sought.
4. Assure equitable, non-sexist enforcement of the Federal Parental Kidnapping Act by making it as applicable against custodial as against non-custodial parents.

Wage assignment guidelines

Following establishment of the prerequisites cited above for participation in the federal program, thereupon assure that if wage assignment statues are required for the remaining delinquencies that such statutes reflect the following considerations:

1. An option by the obligor to select wage assignment payment to a private bank or similar fiduciary rather than solely through the governmental collection and dispersal system

2. Limited time periods of increasing length for subsequent delinquencies. Debt is not a crime for punishment in perpetuity, or throughout a child's minority, predicated on merely one or two delinquencies.

3. Opportunities through court action by the obligor to 'wipe the slate clean' of wage assignment so that wage assignment does not become an 'albatross' to be carried from one potential employer to another by the unemployed competing in the job market.

4. Judicial discretion to waive arrearages when fact-finding judges detect rational justification for aiding parents to focus on the present and future.

5. Establishment of hardship trust funds to more rapidly reimburse the approximately one-fifth of the parents now found to have had tax refunds wrongly confiscated and wages improperly garnished.

Concurrently with this testimony we are also submitting more detailed wording and explanation of these and allied proposals

We welcome the opportunity to construct a program that takes into consideration those methods which have been most successful at voluntarily inducing child support thus far, and we caution against the creation of an enforcement program that is disproportionate in its effect upon the most nearly stable segment of society merely because they are more available for entrapment.

23 AMENDMENT PROPOSALS TO ENSURE THE SUPPORT OF CHILDREN OF DIVORCE

relevant to
child support enforcement legislation
and related Congressional legislation.

Submitted by: NATIONAL CONGRESS FOR MEN

with endorsement of: THE JOINT CUSTODY ASSOCIATION

James A. Cook
Chairman, National Congress for Men
and
President, The Joint Custody Assn.

10606 Wilkins Avenue
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October 31, 1983

Making payment palatable, not punitive.

RANKING PRIORITY AMENDMENT CRITERIA

1 Rebuttable presumption for joint custody.

Joint custody pays,
Reduce sole custody martyrdom

Require states, as a prerequisite for participation in federal program:

that the frequent and continuing access by children of divorce with both parents after the parents have dissolved their marriage will be encouraged by means of a rebuttable presumption for joint custody unless the parents have agreed to sole custody to one of the parents or that joint custody is found harmful to a particular child of a specific marriage.

Joint custody success in child support payment:

* Only 6%-7% default on child support by joint custody parents, as compared with 72% default by sole custody parents in most extensive, recent study thus far.

* Another study: Only 7% of joint custodians relitigating support; but 21% of sole custodians doing so. Only 13% of joint custodians reporting conflict on support, but 34% of sole custodians conflicted. (Center for Policy Research, Denver Custody - Mediation Project.)

* Individual child support dollar payment level running 30% higher than sole custody cases in initial year of joint decrees studied.

* 85% - 90% of joint custody families report "highly satisfactory" acceptance of joint custody for themselves, and as demonstrated by the children in same study.

* Costs to parents, and to court system, reduced: 50% reduction in relitigation of joint custody cases as compared with sole custody.

A feasible Congressional and state action: See House Conc. Res. 6; also, 28 states have joint custody statutes, 13 of those already have required presumption/preference clause to satisfy amendment.

2 Facilitate modification into joint custody.

Joint custody is valid
"change of circumstances"

Require, as a prerequisite for participation in the federal program:

that each state recognize the establishment of joint custody by legislated statute or precedent decree as amounting to a "change in circumstances" warranting hearing and approval for modifying prior divorce/custody decrees into joint custody.

* The support-payment advantages demonstrated by joint custody are thereby available to parents of prior decrees, to the economic advantage of the state, taxpayers and the children involved.

3 Establish child support base level tables.

Basic support schedules

Require, as a prerequisite for participation in federal program:

that each state establish base child support sliding-scale dollar level tables, (keyed to (a) foster parent dollar support levels, and/or (b) AFDC basic support levels, and/or (c) Bureau of Consumer Economics, Department of Agriculture tables for costs of raising a child) thereby removing the inequity of individually litigated child support decrees having no relationship to the costs of raising a child. Assure a base minimum for the child, permitting each parent, thereupon, to spend directly upon the child those additional dollar amounts that reflect the income level of each parent.

* Increase the incentive for each parent to spend funds directly upon the child.

4 Assure availability of visitation for out-of-state removals of children.

No 'taxation without representation'

Require, as a prerequisite for participation in the federal program:

that each state assure, by statute, the continued availability of visitation for a child with both parents, despite a move out-of-state of a custodial parent, by requiring that a child removed out-of-state for more than 90 days must satisfy one of the two following criteria:

1. Agreement by the parents on how visitation for the child will continue on a frequent and continuing basis, or
2. Court hearing to assure continued visitation, despite an out-of-state move, at which the following may be considered:
   a. Adjustment of child support to compensate for additional costs of transportation for out-of-state children.

* Assured visitation, despite out-of-state moves, is the statute law in 11 states.

5 Voluntary agreement achieves better compliance than arbitrary decisions

Agreements before decreements

Require, as a prerequisite for participation in federal program:

that, in those jurisdictions having access to either a private or a publicly-funded mediation or conciliation service, that the parents contesting child support levels or payment will first be directed to resolve the issues and compliance with the aid of a mediator or counselor before proceeding to a formal court of law.

* Parents have demonstrated a substantially better likelihood of compliance with custody, visitation, and support decisions when each has expressed significant input into the agreement or decisions, as compared with the lack of performance in response to arbitrary decrees wherein justifications were expressed solely to a magistrate in order to achieve that magistrate's punitive action upon the alternate parent.

6 Specified percentage of 'parenti me' rather than ambiguous 'reasonable visitation.'

ficity, not leveraged ambiguity

Require, as a prerequisite for icipation in federal program:

that, in cases wherein the parents have not selected nor been decreed joint custody, 'parenting time' allocated to the non-custodial parent will be specified.

Furthermore, in those decrees wherein such 'parenting time' allocated to the non-custodial parent is less than 28.5% of the weekly time (Saturday & Sunday), the court shall indicate the reasons for curtailment of 'parenting time.'

* Curtail the potential for mischief and uncertainty through vague custody decrees which, heretofore, have relegated to the custodial parent the sole power of decision to determine what is 'reasonable' or 'liberal' visitation.

7 Enforceable visitation. No see, no pay

Require, as a prerequisite for participation in the federal program:

that states assure and enforce the continuance and availability of visitation by the children with non-custodial parents with the same vigor as applied to the enforcement and collection of child support from non-custodial parents.

8 Sole custody "best interests" criteria. Most capable, sole custodian

Sole custody based on an important, relevant, problem-resolving criterion,

if the economic assurance of child support is a crucial, priority,

Require, as a prerequisite by a state for participation in the federal program:

that, in those cases wherein joint custody does not prevail, and if the parents have not otherwise agreed which parent should have sole custody, decree sole custody for that parent most capable of assuming the economic responsibility as in the child's "best interests".

* An obvious solution to the support problem in sole custody cases.

9 Both parents responsible for financial support of child.

Sex equality in support

Require, as a prerequisite for participation in the federal program:

that both parents are financially responsible for the economic support of their child and that performance of this obligation can be evaluated periodically after decree, as well as merely prior to divorce decree.

* Most states already have statutes requiring both parents to be financially responsible but, in practice, have made this inquiry only prior to decree rather than periodically and subsequently.. ..which has resulted in custodial parents being advised by their attorneys not to work or demonstrate any source of income until after the decree has been issued.

10 Procedural ease for distress circumstances.

Review process for income losses

Upon a drop in income by the support-paying parent, guaranteed access to an inexpensive administrative/judicial review to readjust dollar support payment levels.

Require, as a prerequisite for participation in the federal program:

that an inexpensive administrative/judicial review mechanism be established for the evaluation and readjustment of support for support-paying parents experiencing an income loss, salary reduction, or are incapacitated and unable to meet previous dollar-level commitments. Make the system as easily available as that proposed for recipient parents seeking an increase in child support.

* Triple-jeopardy is currently experienced by support-paying parents suffering an income loss or reversal with no equivalent risk for a support-receiving parent.

1. Delinquencies mount-up rapidly, and no equivalent income can be recouped for the loss-period. Child support reductions are not currently reduceable retroactive to the moment when the loss occurred.
2. The costs of legal representation to seek a redress are an additional financial burden at a time when new expenses can not be assumed.
3. There is no guarantee of achieving a reduction in dollar support amounts when an income-loss occurs under the present system, despite the added cost of hiring legal representation.

11 Accountability in dispersal of child support.

Verifiable disbursements

Problem now: Contempt-prone for payment obligation; contempt-free for disbursement abuse.

Require, as a prerequisite for participation in the federal program:

that the same power of subpoena, investigation, and examination of records to ascertain the income of a non-custodial support-paying parent also be utilized, including penalties, to require that a custodial parent provide a verifiable accounting of support expenditures by both parents.

* Accountability for child support payment records is statute law in at least two states.

* Lack of accountability is as preposterous as if the federal welfare system handed out cash instead of food stamps; thereby implying we don't care how you spend it as long as you have an excuse to qualify for cash welfare.

12 Four tax law modification/changes to increase acceptability of child suppor

Tax break: support improveme
Chop tax ripoff artists

Require, as a prerequisite for participation in the federal program, that both federal and state governments make the following tax law changes

4 Amendments in tax law:

1. Dependency deduction for the support-paying parent.
2. "Head of household" status for the support-paying parent (who must make the support payments as well as maintain a household for the child to reside in, or visit when the child is with the support-paying parent.)
3. Tax-deduction of child support (by a paying parent) as is now available for alimony.
   Why?
   a. Conventionally married families can deduct many of the expenses disbursed for a child; why not the same for the divorced support-paying parent?
   b. If there is a clamor for assured payment of child support (yet permitting tax-deduction for alimony paid to individuals capable of earning income) it is rational to extend this same deduction to divorced, support paying parents.
4. Assure pass-through to parent paying support for those subterfuge tax-deduction and capitalization of child support monies by recipient parents.
   (At present, support-paying parent receives no tax deduction or credit for the end-use of child support payments.
   Conversely, the recipient parent...without reporting receipt of funds...can shunt that income into such end-use tax-deductible items as interest on housing purchases (which is further tax deductible by the recipient) and other payments typified as "medical", transportation that the recipient may have as tax deductible, certain child care costs, etc.)

Recipients don't report income, yet reap tax deductibility and increasing equity with no guarantees for child, and at the expense of other tax-paying Americans.

Stop phony process-serving

13 Due process notice.
Require legitimate service of notice.

Require, as a prerequisite for participation in the federal program:

that service of delinquency notice is by adequate "due process", not merely return receipt mail or publication notice. A parent falsely accusing the support-obligated parent shall assume costs of rectification for false accusation.

* Unjustifed harassment, including annoyance of employers, must be stopped. System must not be a gratuitous mechanism for annoyance of parent or employer.

* Falsely-accusing parents have no responsibility for their acts under the current legislative proposals.

National Congress for Men
and
The Joint Custody Assoc.

14 Prevent long-term "debtors' prison" treatment merely for limited-time delinquencies.

Amounts delinquent, not future amounts due

Garnishment/deduction only for amount of delinquency unless repeated delinquencies within specified time periods.

Require, as a prerequistte for participation in the federal program:

that each state assure garnishment/deduction is limited to abuse by application only for amount past due,
-second offense of two month's delinquency within two years conveys garnishment/deduction for three consecutive months only;
-third offense of two months's delinquency within three years results in garnishment/deduction for two consecutive years only.

15 Equitable application of parent-locator files system

Finders keepers;
Visitation besides support

Require, as a prerequisite for participation in the federal program:

that the federal parent locator system be available and used for locating custodial parents hiding children from access to noncustodial parents, and employed with a vigor equal to the use of that system for location of noncustodial parents to enforce child support collection.

16 Third-party action jeopardizing of support-paying parent's status.

Holding blameless

Require, as a prerequisite for participation in the federal system:

that a child support-paying parent shall be held blameless and without recourse by the recipient parent, and none of the rights and responsibilities of the child support-paying parent shall be abridged or denied because of a failure by the employer to make proper, punctual or accurate payment of wage-assigned payments.

* Beware: Vindictive activity by support-receiving ex spouse can wreak havoc for working relationship between employer and parent's former spouse.

17 Equitable, non-sexist enforcement of parental kidnapping statutes.

Equal enforcement
of snatching laws

Require, as a prerequisite for participation in the federal system:

that the Federal Parental Kidnapping Act of 1980 and similar state statutes be applied:
a. Without regard to sex of parent, and
b. As applicable against custodial as against non-custodial parents.

21 Hardship funds

Hardship trust funds for falsely accused

Fraud and error in tax-refund confiscation and wage assignment is being encountered in one fifth of such cases by parents wrongly accused. Hardships arise upon confiscation, lengthy and costly rectification procedures place law-abiding parents at risk and disadvantage.

Require, as a prerequisite for participation in the federal system:

that each state establish by statute a substantial trust fund for the prompt rectification of unjustified confiscation and assignments.

22 Judicial discretion to waive arrearages.

Amnesty for the obvious

Require, as a prerequisite for participation in the federal system:

that each state establish statute permission for fact-finding judges to waive obligation of past due child support amounts predicated on such conditions as,

- physical impairment,
- irreplaceable job loss,
- catastrophic economic circumstances,
- equivalent residence and/or caretaking by support obligated parent,
- entrapment of obligated parent in additional caretaking,
- recipient parent had no justifiable need for now-delinquent funds and that claim is predicated solely on punitive enforcement of decree obligation.

23 Unjustified removals as "change of circumstances"

Removals as harassment

Require, as a prerequisite for participation in the federal program:

that the removal of a child by a custodial parent from a residence for the purpose of secreting or depriving that child of visitation access with the non-custodial parent shall be considered an offense against the child and as a sufficient "change of circumstances" to warrant a change in custody. Proof of harm shall be admissible as a defense against a change of custody.

* The arbitrary movement of children in order to deny them access to the alternate parent, in the intact marriage as well as the divorced family, must be curtailed as an harassment technique when done without justification beyond a reasonable doubt.

STATEMENT OF DANNY PIPER, FOUNDER, HELP—HELP ENCOURAGE LOVING PARENTS—BURKE, VA.

Mr. PIPER. Thank you, sir.

I would really like to express my appreciation for your allowing me to be here. It may startle you to know that, first of all, I am not a lawyer, and I am not divorced, which may be a first. But I am quite concerned about parents and children.

I am quite concerned because, I guess under the definition of legally being kidnaped, I was. I was legally kidnapped. I never had a chance to meet my grandparents. I just recently got to meet my dad.

I think it is important that we really do focus in on what is best for the children, because I have heard a lot of talk about money, and I agree that is really important. That is why I support garnishment of wages. I think that child support delinquency is a problem.

But I think, Senator Long, that you made an assumption, that both men and women have a right to have children, that is not really true today in our system of government. My wife, who is 8 months pregnant right now, could easily have had an abortion without my knowledge, and certainly without any preventive measure by me.

I think we are faced, really, with a point of equal rights. Is it an inalienable right for both the father and the mother to have the children? Are we slowly ebbing into a real matriarchal family society? That is what concerns me. That is why I would support S. 1691, with the following amendments: that, first of all, there be a Federal requirement for States to show preference for joint custodial responsibilities as a prerequisite for the garnishments of wages. The problem is the different State family law rules and regulations: Where one man in Texas is charged $6,600 per month for one child—ridiculous, absurd.

Second, enforceable visitation, including the use of the Federal Parent Locator Service, be established to protect the child's access to both parental role models. In other words, if we have a system that can locate a father to get to his money, why can't he locate his children to have access, and to be a parental role model?

Third, a guarantee that sole custody also meet best-interest criteria. In *Kramer* v. *Santowski,* March 24, 1982, the Supreme Court said you need "clear and convincing evidence" to terminate my rights as a parent. I think it is critical that we meet that criteria.

Fourth, a Federal assumption that both parents are financially responsible for support and accountability.

I would like to say that, had the House Ways and Means Committee allowed testimony from those who are really concerned for children, and possibly from the fathers' point of view, they may have learned of the equal enforcement of visitation and the results it has had in Texas—one county in Texas

[Mr. Piper's prepared statement follows:]

Help Encourage Loving Parents
5905 Oak Leather Dr.
Burke Va 22015

Testimony to Senate Finance Subcommittee Hearing
on Child Support Enforcement Program Reform
26 Jan 1984

Distinguished Committee Members and Visitors,

I thank you for this opportunity to represent HELP-DAD members in speaking out for children of divorce. Having never been allowed to see my paternal grandmother or grandfather because of a legal system still in effect today, I feel qualified to speak for HELP-DAD. A wise woman once said that "Our children are our message to the future." The meaning is so simple, powerful and deep that it seems a pertinent place to start. What two people create is theirs to send into the future. Sounds like a pretty inalienable right and subject to the 14th Amendment to the US Constitution. In fact, the US Supreme Court ruled that "clear and convincing evidence" was required to terminate those rights by due process(Santosky vs Kramer,24 Mar 82).

In other words, the present legal divorce system in most states violates the essence of the 14th Amendment. Due process was denied me as a son never ALLOWED to see his father. Today, due process is denied to many parents (Mothers and Grandmothers included) by a system which also denies the children of divorce the parental nuturing necessary to develop into good citizens and healthy adults. For example, the 1982 Bexar County, Texas Juvenile Probation Department Statistics (available on request) showed 70 percent of children in trouble coming from broken homes. I know, your bottom line is money. But money can be saved both in the short term and in the long term.

Secretary Heckler testified, in the 15 Sep 83 hearing, that the child support enforcement program is "...outdated. Obsolete." I agree. It is based on the FALSE assumption that the divorce system is just and in the best interest of children. "No fault" is a basic premise in a system which mandates win all or lose all. Judges and lawyers like Representative Kennelly, Representative Roukema and other law school graduates are trained to beat the other opponent in an adversary relationship. Child support is a part of that contest but so are the children. The false assumption is that the children will be best served by the winner of the contest. The contest is between two adults. The 14th Amendment can't protect the rights of the innocent when the basic premise is: nobody was guilty.

According to Senator Dole's report, child support is only supposed to go to the mother (she gets custody 90% of the time). His view is shared by the Judge in Glud vs Glud, Oct 82(Available on request)- "I think it would be very difficult for a man to raise two boys like a woman can. Therefore, I'm going to name her as managing conservator of the children." This same fairness was demonstrated when Representative Kennelly presided at the House Ways and Means Committee which heard only those with vested financial interest-Feminists,Lawyers,State Agencies. Those who could be further discriminated against by HR

4325 were not heard. Her lack of concern for a father reminded me of when Roe vs Wade apparently voided my RIGHT to have children while I was away fighting in Vietnam. It appears the backers of HR 4325 hold that: fathers have NO right to have children, only the responsibility to pay, without the incentive of having any parental relationship with the child.

" Incentive" says Secretary Heckler is what the states need in order to improve the child support enforcement program. Pretty capitalistic idea and I agree. If the House Ways and Means Committee had permitted fair hearings on HR 4325, the incentive for human beings (not states or a bureaucracy the size of the IRS) might have been incorporated into their bill. Unfortunately no one was allowed to tell the subcommittee of results of the Travis County, Texas Domestic Relations Offices which uniquely encourage visitation enforcement on an equal basis with support enforcement. The incentive for non-custodial parents to participate with their children results in the highest voluntary compliance rate in Texas. Texas Senator Betty Andujar's 1982 task force identified the almost 80 percent voluntary compliance rate (70% including paternity cases).The result is approximately $52.00 collected for each dollar spent compared to approximately $3.50 collected by OCSE for each dollar spent(depending on who is doing the addition).

I know that dollars are the bottom line here and many pressure groups will overwhelm you with THEIR statistics. We need to keep these in perspective by considering motivations. For example, in the greatly publicized McCarty vs McCarty case why did no one question the lack of child support for the three children? When Mrs McCarty left Col McCarty, he got the three children and she recieved 77% of his retirement pay, Why doesn't she pay any child support? Where was your concern for children? Do only men have that responsibility? One San Antonio man pays $6,600 per month for one child. At the California NOW convention(82), NOW panelist Roberta Achtenburg is reported to have bemoaned the fact that "NOW data showed that women known to have had homosexual relations recieved custody less than 10% of the time." I ask you, is her concern for children, money, or lesbian rights. I hope your concern is to provide a system of divorce that provides support for children of divorce in a manner that is best for children.

We support S. 1691 if amended to alleviate the inequities in the current unjust and unfair system of handling our children. AFDC will always be with us since some fathers are dead, some unknown, some in jail and some just unemployed. Of note, many mothers are intentionally unmarried. Many statistics you have heard (especially in the media) are being intentionally used to mislead and degrade fathers. Garnishment will save some welfare dollars in those cases where parents are able to pay (47% already recieve full payment and up to 72% recieve at least partial payment). Increased OCSE salaries and computer resources will offset some of those savings. Some misrepresentations of the truth (in dollars to be saved) appears to be motivated by gender gap hysteria. The human incentive to participate as a parent and to cooperate as a custodial parent will suffer unless you act to protect the rights of children to have access to both parents. The continued predominance of "natural mother" child abuse perpetrators and the sharply increasing "other" category (includes co-habitants) indicated in the 1982 Texas Department of Human Resources Report (available on request) relates to the phenominon that many single parents are being overstressed.

A federal preference for joint parenting may offer a lifeline to many children and will positively motivate the child support from those now isolated by their "ex-parent status". With so many states turning to joint custody (approximately 24) the New York Supreme Court recently declared that geography is not grounds for negating joint custody.

The 1983 All American City of San Antonio (Bexar County Juvenile Probation Department) had 70 percent of children in trouble (75% of those were boys) coming from broken homes. Dr. Richard A. Warshak, Phd, describes the trauma of divorce on children. His findings compiled from 40 major studies over the past 20 years concludes that children and especially little boys suffer serious consequences from the deprivations of sole custody. He recommends preference for joint custody. His study is available upon request. In the Journal of Family Law. Vol 19, 1980-1981, Dr. Diane Trombetta states "Paternal availability seems especially important in IQ performance of boys of all ages." She recommends changing current custody mandates to consider the needs of the child.

The US Senate Subcommittee on Family Human Services "Broken Families" 22 and 24 Mar 83 describe (in over 300 pages) the trauma of little children in divorce. The studies in that testimony reveal significant correlation of homosexual males from father absent homes. The current American system of divorce, in practice, denies men the RIGHT to participate as parents. The bills you are hearing garnish more than dollars. These bills garnish the last bit of due process most divorced fathers and a few mothers have left. It is essential that the entire system be considered. Please read Senator Denton's report. Enforced visitation and preferred joint custody protect children from the damage caused by the "outdated, obsolete" system that Secretary Heckler described.

Perhaps the Legal Aid Corporation should be required to provide statistics on the number of fathers that they have represented in child custody cases versus mothers. My tax dollar supports the Legal Aid Corporation, yet indications are they permit defacto sex discrimation against fathers in custody cases- should not poor men be allowed to be fathers?

A preference for joint custody is an incentive to cooperate. Whatever bill you pass, make sure you protect all children and put their best interest first. Your perception of the gender gap should consider what women who care about children will vote for (not often the same as feminist extremists). As I look into the eyes of my son, I can't believe you will discard his right to parent children. You can protect his right by ensuring a preference for joint custody and enforceable visitation as a federal assumption. He is my message to my grandchildren. Thanks.

Danny Piper

Senator **Grassley**. Senator Long, do you have any questions?

Senator **Long**. I appreciate what you had to say, Mr. Piper. I didn't create this world, I was just born here, and I am just trying to do the best I can under the circumstances. I am also willing to try to benefit from the suggestions I hear.

I am sure, when we get into the areas of domestic relations and family law, that we get into a great number of considerations with which I am just not very familiar. In some cases where fathers are being violent under certain circumstances, I guess the judge has to consider the mental condition of the children and the mother as well as that of the father. But I definitely do sympathize with fathers who have a problem seeing their children. Maybe we can provide some help in that matter while we are working on the other parts of the bill. I will be glad to consider all suggestions, including yours.

Mr. **Piper**. Yes, sir.

Secretary Heckler spoke of incentives—everybody has spoken of incentives—but incentives apply to people, and I think that the results of enforced visitation in Travis County shows that they were able to collect $52 for every dollar spent in their domestic relations offices which is an 80 percent voluntary compliance rate. That was the one county in 252 Texas counties to try such an experiment. And you had testimony last Wednesday that showed that Texas did pass a State law to enforce visitation. That $52 per enforcement dollar spent compares to about $3.50 collected per enforcement dollar spent by the Office of Child Support Enforcement—depending on who is doing the addition or whose facts you want to listen to.

More importantly, consider the kids in San Antonio, the all-American City of 1983: For 2 years running, 70 percent of those kids in trouble in the juvenile probation statistics came from broken homes, and 75 percent of those were little boys, because sole custody is hardest on little boys, like it was on my brother.

Right now, today, there are studies available. One of them summarizes 40 major studies over a 20-year period. It shows that for the general population—as a general rule—and something we would want to legislate toward: Joint custody does foster a better relationship for the children. It joint custody is a positive incentive. If says, "Hey, you are not in that 10 percent that doesn't comply, the 10 percent that normally doesn't. You are in the 90 percent that will."

Senator **Long**. Thank you.

Senator **Grassley**. I would ask each of you questions that I asked the previous panel.

Would you support an income tax refund offset for non-AFDC arrearages?

Mr. **Cook**. I would not at the outset. I would not, without these other more favorable procedures. Furthermore, I Would not be in favor of an offset against a new spouse, or collection in the case of a new spouse. I think the obligation is by the biological parent.

Mr. **Lebow**. I would say that our biggest difficulty has not been the law itself but the lack of law enforcement. I would be in favor of anything that does not violate a citizen's right to due process of law. That is an inviolate tenet of our culture, and it is something that we run across day in and day out. As long as due process is not violated, I have no quarrel with anything.

Senator **Grassley**. I should have said at the out set that our proposals are fashioned to meet due-process tests.

Mr. Piper?

Mr. **Piper**. Sir, I think that due process is the key here, if we protect the child's right to due process, first.

Senator **Grassley**. As I indicated earlier, there are two broad concerns my proposal sought to address: First, the issue of the nonobligated spouse's right to his or her share of the refund. The second one would be proper notification to both the obligated and nonobligated spouse.

Given those safeguards, do you support the income tax refund offset program for non-AFDC families.

Mr. **Piper**. I would have to support it at this time.

Senator **Grassley**. Next I would like to ask about the quasi-judicial procedures that were discussed between myself and the previous panel. Do any of you have problems with moving in that direction?

Mr. **Cook**. Sir, I have some qualifications. Of course, I think it is an excellent idea for those who are desperate for the funds, and I can see why it would be considered for them. But I think the other side of the coin is going to have to be addressed, too. For instance, a very recent study done by the American Child Custody Alliance, quizzing a very large number of men who weren't paying as to why, asked them to rank the reasons why they weren't. The first, most overwhelming reason why they weren't paying was an economic setback.

Most frequently we see and hear from men who think they will get another job, have hopes down the line, problems are delayed, and suddenly the delinquency is out of hand. But they can't get into a formal court system without being able to pay for an attorney in a process they aren't sure they are going to get any relief from.

I believe if you have a quasi-administrative judicial procedure, it must be equal, not only for those seeking support or a raise, but that it be immediately available to those who have an income loss or a good reason for seeking a reduction.

Mr. **Lebow**. One of our greatest problems in Michigan is that most people, like myself when this first happened to me, are totally unfamiliar and unacquainted with courts. The biggest problem we have is trying to educate people as to how they can be a better advocate for themselves. I believe that is the ultimate solution. We already have enough courts and enough people involved in the courts; our problem is that people keep coming back and coming back and coming back. And it is a nightmare for individuals to be involved with the court system when they have no education.

Senator **Grassley**. Would the citizenry be better served by a quasi-judicial or administrative body to help it determine differences?

Mr. **Lebow**. That is an impossible question to answer, because it depends on the individuals that you are in front of and how well they are educated. One of the things I have observed, as Mr. Pangborn said, is that there is a great disparity in the knowledge of the people who are running the court systems, even about the law.

Senator GRASSLEY. But I thought you were implying that it was a courtroom environment that tended to intimidate people.

Mr. LEBOW. Absolutely. Yes. People are very fearful when they go to court.

Senator GRASSLEY. From that standpoint I thought you were implying that they might be better off in a noncourtroom environment.

Mr. LEBOW. Oh, definitely. Yes. I think that people would at least feel a little more comfortable not having to go into a court, in front of a judge who sits sometimes up high with a robe on. I think that is a frightening experience for people who have not been there.

Mr. PIPER. Sir, Representative Kennelly wasn't able to have any of this testimony in the House before they passed H.R. 4325. The task force that Senator Betty Andujar set up in Texas in June of 1982, revealed that in Travis County, where these domestic relations offices were tried, they were found to be very successful. During January through June of 1982, Travis County Domestic Relations received 4,743 complaints. This boiled down to 92.8 percent that involved support and 7.2 percent that concerned visitation. Denial of visitation is really an act of will. The number of actual hearings served to demonstrate that enforcing visitation enlarged the office's workload only minimally. What it did, just the warning was enough from the intermediary there to bring these people back in line, to get them talking, because only 1.6 percent ever required going back to trial. The lack of that adversary condition is important.

Senator GRASSLEY. Senator Long, did you ask all of your questions?

Senator LONG. I am finished.

Senator GRASSLEY. Senator Durenberger just came in, so before I dismiss you I would ask him if he has any questions of this panel.

Senator DURENBERGER. No questions.

Senator GRASSLEY. All right

We want to thank you, and we will proceed now to the sixth panel.

This panel consists of Jerrold Brockmyre, president of the National Council of State Child Support Enforcement Administrators, and director of the office of child support, department of social services in Lansing, Mich.; Sue Hunter, legislative chairman, National Reciprocal and Family Support Enforcement Association, and administrator of the child support enforcement division, Jefferson Parish District Attorney's Office, Gretna, La.—Senator Long will want to welcome you, I am sure—and then Samuel G. Ashdown, Jr., director of the Florida Family Support Council, Inc., and director of the child support enforcement program in Tallahassee, Fla.; and Irwin Brooks, assistant commissioner, office of income support, New York, N.Y.

Senator Long, would you like to say a world to Ms. Hunter?

Senator LONG. I am pleased to see Ms. Hunter here. She was here before on another occasion, and we are glad to have her back.

Ms. HUNTER. Thank you.

Senator GRASSLEY. I would ask you to proceed, in the way I introduced you—Mr. Brockmyre, Ms. Hunter, Mr. Ashdown, and then Mr. Brooks.

STATEMENT OF JERROLD H. BROCKMYRE, PRESIDENT, NATIONAL COUNCIL OF STATE CHILD SUPPORT ENFORCEMENT ADMINISTRATORS, AND DIRECTOR, OFFICE OF CHILD SUPPORT, DEPARTMENT OF SOCIAL SERVICES, LANSING, MICH.

Mr. BROCKMYRE. Mr. Chairman, members of the committee, the organization that I am with are the IV–D Directors of the Child Support Enforcement Administrators throughout the United States. There are 54 of us, one from each State and jurisdication.

I think that, contrary to what we have heard in some places, the child support program to date has been a tremendous success. I think that our problem is that we have been too good in some ways; we have drawn a lot of attention to what has happened—when I say "we," I mean the legislation that has passed, and by "we," I mean the Congress in some of the things that have happened recently.

Now we have to address the portion of the population which we have not addressed previously on a national basis, and that is the non-AFDC caseload.

The council has a series of recommendations. I am not going to get too much into the administrative cost; there has been and will be more testimony about that. I will just urge that it not go lower than 70 percent. Last year there was a 20-percent increase in State funding. This year there is a 20-percent decrease in incentives. To take more away from the program would be devastating, because the local city, county, and State governments would have difficulty appropriating more.

Mandatory income withholding—it is the recommendation of the Council that mandatory income withholding become effective immediately upon issuance of an order, that there be no waiting period, that every case have a mandated income withholding. For those cases that are on the rolls now, if the case becomes delinquent, if there is an arrearage, it will then become an income withholding case. In those cases on the rolls where there is no arrearage, it would be up to the judge as to whether or not he or she wanted to mandate income withholding.

Collection of past-due child support for non-AFDC children from the Federal tax refund is recommended and supported.

An information system—it takes time to do all of the things that are in these pieces of legislation, and the States need the mechanism to do these things. We recommend that the 90-percent funding not only for the development but also for the purchase of equipment be part of this legislation.

Fees for services to non-AFDC families—it is recommended that the current law remains.

State income tax withholding—we support the language in the administration's bill.

Exemption authority.—We support the language in the administration's bill.

Effective date of the requirements.—We recommend October 1, 1985.

Quasi-judicial or administrative procedure.—The National Council supports the recommendations on quasi-judicial or administrative procedure for entering and enforcing support orders

They also, which is not in this testimony, recommend that paternity be recognized by itself and funded perhaps as a separate unit, or at least not included in the determination of the effectiveness of collection of child support.

Senator **Durenberger**. Thank you, Mr. Brockmyre. Your full statement will be made part of the record

[Mr. Brockmyre's prepared statement follows:]

STATEMENT OF JERROLD H. BROCKMYRE
PRESIDENT
NATIONAL COUNCIL OF STATE CHILD SUPPORT ENFORCEMENT ADMINISTRATORS

BEFORE THE

SUBCOMMITTEE ON SOCIAL SECURITY AND INCOME MAINTENANCE PROGRAMS
SENATE FINANCE COMMITTEE

CONCERNING

CHILD SUPPORT ENFORCEMENT PROGRAM
REFORM PROPOSALS

JANUARY 26, 1984

INTRODUCTION

Mr. Chairman and members of the Committee, the National Council of State Child Support Enforcement Administrators, on whose behalf I am appearing, thank you for this opportunity to express the views of the Council in relation to H.R. 4325, S.1691 and S.1708. I am Jerrold H. Brockmyre, President of the National Council and the Director of the Office of Child Support, Michigan Department of Social Services, the organization responsible for the administration of Title IV-D of the Social Security Act within the State of Michigan.

The National Council of State Child Support Enforcement Administrators is established: to promote the development of legislation and policies which will have a positive effect upon the Title IV-D Child Support Enforcement Program; to provide a forum for state Child Support Enforcement Administrators to discuss common problems and solutions associated with program administration and interstate and international cooperation; to provide a structured medium for communicating with federal agencies the views, opinions, or consensus of the Council, while maintaining a continuing dialogue with federal agencies on matters of concern or interest to the Council.

The National Council is composed of representatives of each state and territory of the United States. Each of the 54 jurisdictions maintains membership. The views expressed herein are accurate representations of the membership. While many of the items included in the proposed legislation are supported by the Council, there are key issues which are strongly opposed.

ANALYSIS AND RECOMMENDATIONS

The sponsors of the bills presently before this Committee have included indepth definitions of the problem before the nation. As an organization committed to helping to develop and implement an improved national child support enforcement effort we strongly endorse the stated intent of the many pieces of legislation which have been introduced this year. Because of all of the recent activity regarding child support I will not present statistical and emotional arguments addressing the need for change, but will get directly to the point of the support or non-support of the legislation which is the subject of this testimony. To bring the nation to the level of support enforcement which we all desire it must be supported by strong legislation and adequate funding. H.R. 4325 is a solid beginning toward this effort and strongly supported by the National Council of State Child Support Enforcement Administrators. Passage of this legislation will require additional legislation, administrative systems and data gathering mechanism in nearly every state but it is necessary if we are to begin to meet the expectations of those the legislation intended to assist.

FEDERAL MATCHING OF ADMINISTRATIVE COSTS

It is recommended that a minimum of 70% Federal Financial support for Title IV-D be maintained. Federal Financial participation at the current 70% is essential to instill confidence in state and local governments and encourage the commitment to the establishment of paternity and enforcement of child support. The 20% increase (from 25% state to 30% state) in state funds which resulted from the 7% decrease (from 75% to 70% federal) in federal funds in fiscal year 1983 has had a detrimental effect on the program. Confidence by those at the local level in the permanency of the funding has been shaken. Some states and localities were unable or unwilling to increase their funding for the program to cover the cost of inflation and to increase the expenditures by an additional 20% was out of the question. The administration's proposal to increase state expenditures an additional 33% could very well prove to be disasterous. Most state and local governments have not yet realized the economic and social value of a strong child support enforcement mechanism and they are unable to fund to make up for the loss of federal funding. This legislation requires additional caseloads and necessary, complex administrative processes. To lower the percentage of federal financial participation for administrative costs would result in a question of federal commitment and a decrease rather than an increase in state and local financial support.

MANDATORY INCOME WITHHOLDING

Mandating income withholding has long been a recommendation of the Council. It is necessary and will be a tremendous asset in the collection of child support. It is recommended by this Council that the mandatory portion of this legislation become effective immediately upon the issuance of the original order (after the effective date of this legislation) and upon modification of all orders which are in place on the effective date. We believe that it would be most beneficial to all involved if the income withholding was immediate upon order, rather than waiting until an arrearage has been built. This would eliminate the multitude of paper, administrative and judicial costs and loss of funds to the custodial family resulting from waiting until an individual has done something wrong or failed to do something right before action is taken. Making it automatic would eliminate the embarrassment of the employer knowing the individual had failed to pay child support and emphasize to all that payment of child support is as important as payment of taxes. If income withholding was mandatory in all cases where the non-custodial parent was employed everyone would be treated equally and the steady payments would relieve many of the pressures experienced by custodial and non-custodial parents. One of the major interests of the Council is to develop methods to make the payment of child support as equitable, consistent and easy as possible. While an immediate income assignment in all cases sounds harsh it will assure ongoing consistent payments and eliminate the decision on the part of the payor of where to expend the income received on payday. The Council supports the portions of the recommended legislation which protects the rights of the employee.

If automatic immediate income withholding is not found to be favorable to Congress the following are recommendations regarding the income withholding portion of H.R. 4325. Sec. 466 (b)(2) last portion of last sentence be amended to read, "and in either case such withholding must occur without need for any amendment (except the $ amount to include arrears and/or the original order to include an income withholding provision) to the support order involved or for any further action by the court or other entity which issued it". There is a confusion as to what is expected to be done with the millions of orders which will be on the books effective 1/10/85 and have no income withholding provision. There is also a necessity to amend the order amount if arrearages are to be captured through income withholding. The suggested, or some similar amendment, is necessary to allow for those actions.

It is recommended Sec. 466 (b)(3) be amended by adding the words, "the withholding process" between "and" and "must" in the first sentence. That portion of the sentence would then read, "and the withholding process must begin as soon as...". It would be impossible to actually begin withholding on the date which the overdue payment is to be determined.

It is also recommended that Sec. 466 (b)(5) be amended to read "The state (A) must provide any advance notice required by the procedural due process requirements of the state and (B) if the individual contests such withholding on the grounds that withholding (including the amount to be withheld) is not proper because of mistake of fact shall determine whether such withholding shall actually occur, and, (if so) shall begin such withholding as soon as administratively possible but no later than 30 days after the date of final determination."

Some of the states who now have mandatory income withholding meet the requirements of procedural due process requirements of their states without having to provide an "advance notice to each individual". To require this process at the federal level would build costs and delays which are presently not necessary in these states. Also, the "30 days after provision of such advance notice" is not enough time to accomplish the requirements found in Sec. 466 (b)(5)(A) and (B).

The income withholding process, while it is in place in some form in many states, is one which will require the development of many new systems and administrative procedures in most of the states. State legislation and additional resources will be required before income withholding will become a reality and unworkable, too restrictive, laws will hamper rather than assist in the process.

Withholding from State Tax Refund

The National Council supports the language of the administration's bill regarding withholding from state tax refunds.

Quasi-Judicial or Administrative Procedures

The National Council supports the recommendation of states to use quasi-judicial or administrative procedures for entering and enforcing support orders.

Exemption Authority

The National Council supports the exemption authority stated in the administration's bill which allows the Secretary to grant exemptions.

Effective Date of the Above Requirements

The National Council recommends that the effective dates of the requirements give the states enough time to prepare legislation, develop and implement systems and establish administrative procedures required to accomplish the requirements of the law. The mandatory portions of this legislation should not have a date before 10/1/85.

FEDERAL INCENTIVE PAYMENTS

The incentive formula proposed in H.R. 4325 is a giant stride toward eliminating the inequities which have developed over the years and erasing the questionable case categorization of child support cases. The Council strongly supports this effort and gives the following recommendations in the spirit of further refining the formula to give continuing incentive to those states who fall above and below the current formula structure.

In order to encourage those states who spend more than one dollar for every dollar collected it is suggested that the 4% incentive begin at and/or lower than .6 dollars collected for every dollar spent and then increased to 4.25% at .7, 4.5% at .8, 4.75% at .9 and 5% at the 1 to 1 ratio. This will give those administering child support in the states well below the 1 to 1 ratio (19 states - FY 1982) a more positive approach when attempting to convince their appropriating bodies of the benefits of the program. With some immediate incentive benefit those on the lower end of the scale are more likely to respond positively to appropriating the necessary funds. They will be able to see more rapid financial return on their investment.

At the upper end of the scale the incentive formula in H.R. 4325 caps out non-AFDC at 125% of AFDC incentive. When a state reaches that level the only way to increase incentive is to increase AFDC collections. That could in some instances be an incentive for states to divert resources from non-AFDC collections to AFDC. This could erode one of the very positive aspects of this legislation. At the present time there are 17 states (fiscal year 1982) whose non-AFDC collections already exceed their AFDC collections by more than 25%. In order to encourage increased effort in non-AFDC for states in this situation an additional non-AFDC growth incentive is recommended. This growth incentive would apply only to non-AFDC growth and only in those states in which the non-AFDC cap has taken effect.

The proposal in S.1691 is so nonspecific that it is difficult to comment on it in any detail. It is positive in that, for the first time, it makes provisions for recognizing non-AFDC. The unknown formula is our main concern. The words used by Margaret M. Heckler, Secretary, Department of Health and Human Services before the Subcommittee on Public Assistance and Unemployment Compensation Committee on Ways and Means on Child Support Enforcement amendments, July 14, 1983, were, "We propose to reward effective state performance by paying bonuses to the states that establish superior records in collections for welfare and non-welfare families." This language is the same as was used in the arguments to justify the 1982 restructuring formula. It is our concern that the administration would use the same bonus scheme under this general language as they proposed in their previous budgeting formula which was not accepted last year and withdrawn this year.

S.1708 establishes an incentive program which is based on classes of cases; "perfect" and "adequate". The definition for these cases deals with information which has not been gathered in most, if any, jurisdictions in the United States. It is complicated and, according to information available from states that have attempted to gather this data, the percentages included in the formula are not possible to attain at the present time. Although the formula does have merit as an incentive plan it is too sophisticated to be practical at this time. In order to achieve an incentive plan such as this data processing systems should be developed or strengthened and central records maintained.

CLEARINGHOUSE AND INFORMATION SYSTEMS

One of the biggest detriments to consistent collection of child support is the lack of information available in a timely manner to those responsible for enforcement. One of the reasons for this lack of information is that many states or local units of government do not keep track of payments other than those paid to cases where the children and the custodial parent are receiving AFDC. Even for those who keep track of AFDC payments, their methods are, in many cases, not automated and there is frequently a long period of time before it comes to their attention that payments have not been made. The need for comprehensive statewide data processing systems and a clearinghouse of all cases at the state or local level (if exchange of data is available) is critical. If we are to improve the national child support enforcement effort it is imperative that we have available a method of entering, tracking, and managing the case data. It is the recommendation of the National Council that 90% funding be made available for the development of the system and the purchase of the equipment and that a point in time be designated as mandatory completion of a clearinghouse. Time must be allowed for the development of the data processing systems. However, if a final allowable date is not established some states or jurisdictions will not conform.

FEES FOR SERVICES TO NON-AFDC FAMILIES

The Council recommends that current law which gives the states the option of charging an application fee for furnishing services to non-AFDC families be maintained. It is the position of the Council that fees are self-defeating. If we charge the custodial parent we are taking the money from the children we are trying to help. If a fee is charged to the non-custodial parent it will have to be paid above current payments and arrearages. Those who pay regularly would not pay fees because there would be no request for IV-D services. Those who do not regularly pay child support would have to be current in their child support payments before we could collect a fee. The fee becomes an expensive administrative process and it is the recommendation of the Council that the current law remain.

Periodic Review of Effectiveness of State Programs; Modification of Penalty

The National Council has been working with the administration in the development of this section of the proposed legislation. The Council supports the modification as a method of performance evaluation and as an incentive to improve the program of an individual state or local unit.

Collection of Past Due Support From Federal Tax Refunds

The Council supports the language in S.1708 regarding offsetting federal tax refunds for the purpose of paying past due child support if the effective date of the mandate is such that it allows the state adequate time to develop a central clearinghouse and a data processing system capable of keeping accurate past due amounts of non-AFDC cases. The hesitancy of the Council regarding the non-AFDC federal tax offset process is caused by the fact that many states do not have records of payments of non-AFDC child support cases. As a result, each non-AFDC custodial parent would have to individually request that the tax be offset and this would have to be followed by a hearing to determine the exact amount of arrearage owed, and the administrative cost and complexity of that process would be prohibitive. Some of the states have very good records of past due amounts and could submit to IRS the information necessary to capture IRS returns from delinquent payors. Perhaps language could be developed which would allow those states with the capacity to submit names and mandate other states to develop and implement systems by a given date. Our concern in all of these issues is that due process of the law is followed and procedures are not developed which would lead to court decisions having a negative impact on the total child support process.

CONCLUSION

With the increased mobility of the populous national mandates are necessary if we expect child support enforcement is to be consistent and effective. There are annually billions of dollars which are not being paid to children by non-custodial parents. State governments and the judicial system have not yet met enforcement demands. The abuse has been slowed but additional national legislative and financial support is necessary if we expect to reverse the trend.

One of the most significant aspects of this legislation is the recognition and financial support for the enforcement of non-AFDC child support. This is the first real national emphasis on both AFDC and non-AFDC caseloads. Up to this time non-AFDC was recognized as a cost burden when measuring collections and was not strongly encouraged by many states.

The goal of the Council, as the goal of this legislation, is to establish paternity and enforce child support orders for all children who need assistance. The Council believes that Title IV-D as administered by the states has played a significant role in reducing the need for AFDC assistance to millions of children throughout the United States. This legislation further strengthens the network which has been established and will allow and assist those of us who have the responsibility to administer paternity establishment and child support enforcement to relieve some of the social and financial pressures which are burdening single parent households.

Summary Statement of Jerrold H. Brockmyre
on behalf of the National Council of State
Child Support Enforcement Administrators
January 26, 1984

SUMMARY

Federal Matching of Administrative Costs

It is recommended by the National Council that at a minimum the current 70% Federal Financial Participation be maintained. In order to obtain the cooperation and effort necessary to begin to accomplish the intent of this legislation a strong statement of continuing federal support is necessary.

Mandatory Income Withholding

It is the recommendation of the National Council there be mandatory Income Withholding and that the withholding become effective immediately upon issuance of an order. We believe it would be most beneficial to all involved. The payments would be consistent, there would be no arrearages for continually employed people, employers would know it was mandated and not the result of failure to pay, it would be easier to pay and persons would begin thinking of child support as required rather than a choice.

Federal Incentive Payments

It is the recommendation of the Council that the incentive payment proposal (with minor amendments) found in H.R. 4325 be adopted.

Collection of Past Due Child Support From Federal Tax Refund

The National Council supports the language in S.1708 provided the effective date of the mandate allows adequate time to develop processing systems.

Clearinghouse and Information Systems

It is the recommendation of the National Council that 90% funding be made available for the development of the system and the purchase of equipment and that a point in time be designated as a mandatory completion of a clearinghouse.

Fees for Services to Non-AFDC Families

It is the recommendation of the National Council that the current law remain.

Withholding from State Tax Refund

The National Council supports the language in the Administration's bill.

Effective Date of the Above Requirements

The National Council recommends the effective dates give states necessary time to accomplish what is required to accomplish the requirements of the law and that the date for mandatory portions of legislation not be before 10/1/85.

Exemption Authority

The National Council supports the exemption authority stated in the administration's bill.

Quasi-Judicial or Administrative Procedures

The National Council supports the recommendation on quasi-judicial or administrative procedures for entering and enforcing support orders.

Senator **Durenberger**. Ms. Hunter, we welcome you back. And as I said earlier, you have been very helpful to us in the past.

STATEMENT OF SUE HUNTER, LEGISLATIVE CHAIRMAN, NATIONAL RECIPROCAL & FAMILY SUPPORT ENFORCEMENT ASSOCIATION, AND ADMINISTRATOR, CHILD SUPPORT ENFORCEMENT DIVISION, JEFFERSON PARISH DISTRICT ATTORNEY'S OFFICE, GRETNA, LA.

Ms. **Hunter**. Thank you, Senator Durenberger and Senator Long. It is a pleasure to be here today.

I must echo the comments of Jerry Brockmyre and ask you to retain the 70 percent Federal financial participation. We see it as essential to the continuation of the program, and without it I fear that there will be a great many local governments that will be forced to pull out.

We would like to see the minimum incentives to 6 percent with 150 percent cap on the non-AFDC collections. However, I must stress that the basic 70 percent FFP is most important to us, more important than the others.

I would like to address the one feature in the House bill 4325 which has been grossly neglected, in my opinion and the opinion of NRFSEA, and that is the question of paternity.

The bill, as it has come out of the House, is almost a disincentive to establish paternity. And you gentlemen realize what a growing problem this is in the country. Surprisingly enough, I couldn't get really accurate figures on the size of the problem, but I am convinced, from a study that was made 7 years ago when the national average was 33.8 percent of the AFDC household there paternity had not been established. Think how that has grown in 7 years.

I know that Mr. Brooks will testify that two-thirds of his caseload in New York City on the AFDC side has that kind of problem. I did some checking in Louisiana. Seventy percent of our AFDC intake cases need to have paternity established. My local jurisdiction is 60 percent; I have the records, and I check them every month.

If there is a clear case where paternity has to be established, we are going to have a complete breakdown due to the overload on the welfare rolls. But if the Federal Government really wants paternity established, they will have to put some emphasis on paternity establishment and not just on cost effectiveness for the program.

So we are asking for meaningful incentives for establishing paternity to be added to the bill. I know there is some disagreement about how you would do that. After looking at it many ways, it does seem to me perhaps that the most meaningful of stressing effectiveness in establishing paternity would be to add one-half percent incentive for each 5 percent increase that a State had during a given year. If they increased establishing paternity by 10 percent, you could give them 1 additional incentive point.

I would like to address another matter, and that is that I feel like what we are talking about here is what should be done on the whole child support program, not particularly how to do it. This is a very large country with many different ways of approaching a situation. If you mandate one particular approach, what is going to happen is that you are going to require the good to be thrown out with the bad in another State. I think it would be well if you allowed maximum flexibility on procedures but require the States to set an annual standard for improving their effectiveness and expediting their processing. And performance should be measured on results, not on procedures.

Thank you very much.

Senator **Durenberger**. Thank you very much.

Mr. **Ashdown**? And after that, I think we will have to have to take a brief recess to go and vote. Mr. Brooks, I hope you have a little time.

[Ms. Hunter's prepared statement follows:]

STATEMENT BEFORE THE
SENATE FINANCE COMMITTEE
THURSDAY, JANUARY 26, 1984

BY SUE P. HUNTER
ADMINISTRATOR
SUPPORT ENFORCEMENT DIVISION
OFFICE OF DISTRICT ATTORNEY JOHN M. MAMOULIDES
JEFFERSON PARISH, LOUISIANA

FOR
NATIONAL RECIPROCAL AND FAMILY
SUPPORT ENFORCEMENT ASSOCIATION

REGARDING
AMENDMENTS TO
THE CHILD SUPPORT ENFORCEMENT PROGRAM
AS THEY RELATE TO
TITLE IV-D OF THE SOCIAL SECURITY ACT

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to testify on the Child Support Enforcement Program.

I am Sue P. Hunter, Administrator of the Support Enforcement Division of District Attorney John M. Mamoulides in Jefferson Parish, Louisiana. I speak as Chair of the Legislative Committee of the National Reciprocal and Family Support Enforcement Association.

There are two main points in H.R. 4325 which are very important to us. They are:

1) The 70 percent federal financial participation in the program.

2) The 125% incentive possible for NAFDC collections over AFDC collections.

We ask that the Senate not lower either of these key provisions.

SEVENTY PERCENT FINANCIAL PAP ICIPATION

Continuation of stable funding at least at its current level is imperative. We have been able to come as far as we have in the Child Support Enforcement Program because of federal money. State legislators and county officials are not able or willing to add more funds themselves and if this is to be truly a national program, perhaps they should not. Dependable funding is essential.

Child Support Enforcement is not the most popular program in existence. While most federal programs give money, we are trying to collect it. It's tough, hard work. Even as we become more knowledgeable in how to collect money, those delinquent absent parents become more sophisticated in their means to escape the net. Witness even the experience of declining rates of improvement in IRS tax intercept. As we close the escape hatches, continued improvement in effectiveness will be ever harder to accomplish. To do so, we must have sufficient finances to operate effectively. Reduction to 65% funding threatens a viable program.

The thrust of H.R. 4325 to provide the same treatment for both AFDc and NAFDC cases is commendable and has long been advocated by program administrators. Applying "balance" in the actual field operation case load will not come about that easily, painlessly, or cheaply. In many, if not most, instances, it will mean shifting assignments for the same personnel to handle doubled demands. The maxim of "Don't Work Harder, Just Work Smarter" will be pushed to its outer limits. With awareness of "cost effectiveness" hovering over every move, reduction to 65% FFP could make a mockery of the program in many locations, much less achieving a balance.

Recognition of the growing problems in collecting child support was what prompted the federal government to set up a national program in the first place. It is now time to move from concerns about the structure of the program to concerns for performance and effectiveness. As we enter this new phase, we also face new challenges which will inevitably cost money. Reduction in the base at this point will simply cause regression of much of the results thus far.

Because of the carrot-stick tie to the much larger pool of federal money going into the AFDC grants, state governments are pretty well compelled to stay with the IV-D Program in some fashion. Yet with the budget crisises state legislators face, they will be reluctant to put more money into the support enforcement kitty.

The real hazard in reducing base funding is in what could happen to locally administered programs across the country. Local governments are at the end of the line on available government resources. There is no stick to compel them to continue the IV-D program. Nor should there be. However, if the cost to local governments becomes too great, they may have little choice but to relinquish part or all of the program services to state government. Any shift of services from local to state government raises the state program costs and will reflect on its ratio of cost effectiveness. In some states, this may not be a problem. In others, the results could only be chaos for years while a totally new system is devised and implemented.

125% CAP ON NAFDC INCENTIVES

H.R. 4325 recognizes the need for allowing incentives on NAFDC cases to surpass those for AFDC. We fully support this measure. Quite a number of states, including some of those strongest in collections, already collect more from NAFDC cases than AFDC cases and need this incentive.

RECOMMENDATIONS

1. Incentives

We ask that the basic incentive payment be raised to six percent of a state's AFDC collections and six percent of the non-AFDC collections.

The Administration has assured us that they do not wish to cut the funding for this program but are simply trying to get states to do a better job. However, the provisions of this bill will require a greatly expanded work load while the incentives continue to be based on the ratio of AFDC collections to combined AFDC and non-AFDC administrative costs, rather looking at each type of caseload separately. Anyway you look at it, the basic incentives are being reduced from 12 percent to 9 percent (4 percent AFDC plus 4 percent NAFDC and 1 percent NAFDC cap.). This amount can be even less, dependent on how incentives are passed through to local jurisdictions.

Thirty-seven percent of the IV-D jurisdictions have not yet reached cost effectiveness in the ratio of collections to expenditures. One should keep in mind the many variable factors which have caused this situation. Among these are different state laws, support enforcement history, organization, staffing, enforcement procedures, unemployment statistics and URESA caseloads. Ongoing stable funding and technical assistance from the Office of Child Support Enforcement are needed to improve performance. Until that time, the federal government should be careful not to make such drastic changes that the national program will be placed in jeopardy.

Until now, it appears that few states have geared their Child Support Enforcement Program to provide equal treatment for AFDC and non-AFDC cases. There are also disparities in emphasis between locations in various states. As we move to parity in the two types of cases, states will continue to need that assurance of a minimum incentive to keep their program operating. There is a cost to move to parity. The shift to emphasis on cost effectiveness at this time has problems, with the end result being the rich get richer and the poor get poorer.

Conditions also vary within states. For example, there may be one major locality within a state, such as a large city with many AFDC cases where paternity determinations must be made, which can drive down cost effectiveness for the entire state. Since incentives would be paid on a statewide basis rather than on individual cases, local units can suffer drastically if they do not receive incentives at least equal to their current, already reduced, rate. Many jurisdictions in this country depend heavily on incentives to use as their part of the local match for federal funds.

Non-AFDC incentives should be permitted to go to 150% of the AFDC collections. NFRSEA feels that cap is self-defeating because it discourages removing cases from the welfare rolls. Also, those states who have traditionally had large NAFDC collections have nothing to gain by adding more NAFDC cases.

IV-D agencies throughout the country are expecting heavier work loads when the new laws go into effect. These new mandates and regulations for processing, enforcing and collecting child support will require increased personnel, facilities, equipment and supplies. Child Support officers can't legally refuse service to anyone, but as the system becomes overburdened with demands from more and more people, the ability to produce effective and efficient service declines. This reflects on cost effectiveness which in turn lowers incentives because the cost effectiveness ratio has either decreased or failed to improve.

By changing the incentive formula, to bring about a balanced program, the Federal Government is reducing an already lowered incentive on AFDC cases by 2/3 - from 12% to a basic 4%. True, the new NAFDC incentive brings an incentive from 0 to the basic 4%. But once income assignments and other enforcement provisions are publicized, one can expect an accelerating workload. It does not seem an equitable situation to have NAFDC collections capped, regardless of the workload, regardless of the collections.

2. Paternity Determination

One of the primary purposes of the IV-D Program has been grossly neglected in H.R. 4325. By not addressing paternity establishment in any meaningful way, Congress could be working against its goal of reducing welfare rolls. In making the shift to a balanced program, the House bill has become in effect a non-AFDC bill which actually harms the cause of paternity determination.

The need for paternity establishment is large and growing steadily. Statistics are both sobering and shocking.

... 18% of all births annually are out of wedlock.

... 46% of the children in AFDC households nationwide were born to unmarried parents.

... 2/3 of the New York City child support caseload involves children born out of wedlock.

... 70% of Louisiana AFDC cases need paternity determination.

There is a clear case for the necessity of paternity establishment or we will have a complete breakdown due to overload of the welfare system.

The only place in the House bill that paternity is addressed is excluding laboratory costs incurred in determining paternity from administrative costs. This is a mere drop in the bucket in comparison to the overall costs of paternity establishment. It serves as a disincentive to pursue this type of case.

Paternity cases are among the most difficult and the most expensive to work. If the federal government really wants paternities established, they will have to put some emphasis on it rather than simply on cost effectiveness for the whole program.

Therefore, we recommend that for purposes of calculating incentive payments, states be permitted to reduce the total amount counted as administrative costs for child support enforcement activities by the amount expended in paternity determination up to the time the order is entered. As an alternative, we suggest that a flat sum of $1000 be excluded from adminstrative costs in determining cost effectiveness. A third possibility is adding incentive points for percentages of annual growth of paternities -i.e., provide .5 percent incentive for 5 percent growth from previous year, 1 percent incentive for 10 percent growth.

3. IRS Tax Intercept for Non-AFDC Cases

The National Reciprocal and Family Support Enforcement Association believes that if equal treatment is to be given to both AFDC cases and non-AFDC cases that the Federal Tax Intercept should be extended to non-AFDC cases. We do have procedural concerns about the process and believe that there should be a positive verification of delinquent support before the offset request is submitted to the Internal Revenue Service, as well as due process in prior notification to the obligor. We feel that resolution of these problems can be solved, just as problems with the AFDC tax intercept are being addressed.

4. State Commissions

While we agree that the state commissions should not fund consultant fees or studies, we do feel that the state commissions must be funded by the federal government at the current match rate if you want them to accomplish the purposes for which they are to exist. If the commissions are funded and well composed, we do believe that they can make an important contribution to the future of child support in this country.

OTHER CONCERNS

1. Cost Effectiveness

We are still disturbed at the attempt to cap expenditures on the program by the great emphasis on cost effectiveness. This leads to the philosophy of don't work a case if it is not productive. This is particularly destructive in the case of paternity establishment where recouping the expense of establishing paternity is not immediately productive and the pay off in collections is long range at best.

Start up and implementation costs for new procedures are expensive and do not show immediate results. Implementation can damage current cost effectiveness.

With limited resources, will priorities be placed on helping those who need child support now but have a difficult case or on meeting a quota for cost effectiveness?

While we recognize the importance of cost containment and goal orientation in our effort to provide service for all children in need of Child Support Enforcement Services, we must stabilize the program's funding formula so that state and local jurisdictions can concentrate on their original goals...to collect child support for America's children.

2. Incentive Pass Through To Local Jurisdictions

Local jurisdictions do not wish to be shut out of the distribution of incentives. The incentives must be there, or the program will be going backwards. The incentive earnings must be based on local unit activity and not on statewide totals if local jurisdictions are to continue operating.

3. Reporting Requirements

The reporting requirements for the Secretary's annual report would require a great deal of time and effort be spent which could be better utilized in collecting money. It has been calculated that some 800 separate items would have to be entered to meet those requirements. The IV-D program is not far enough along to be able to deflect that much personnel time for the gathering and recording of such statistics. For those states still using mechanical systems, it would be unusually difficult, with great possibility for error. Even those with mechanized systems would have to reprogram, and one should not forget that human beings must gather the raw data to be fed into a mechanized system.

The Department might do a sampling of cases itself to see if the results were worth the effort. Practitioners feel that the statistics now being collected should be reevaluated in the light of their usefulness to the Department of Health and Human Services and to Congress.

4. Related Obligations to Child Support

While we have great sympathy with the problems connected with visitation, custody and other related obligations, we feel that the issue of child support must be legally separated from other issues rather than linked to them.

5. Interstate Cases

While everyone recognizes the growing problems of interstate cases, we are concerned that the approach used in the H.R. 4325 will raise such jurisdictional, constitutional and due process questions that the legislation will not accomplish its intent. This particularly applies to income withholding and state income tax refunds.

Regarding state income tax refund offsets, the requirement that such a process be used to enforcement interstate support is legally unsound. "Offset" is a legal mechanism which can be used if both parties to the offset owe each other a debt. If state "A" owes the obligor a tax refund and the obligor owes state "A" assigned child support, the legal process will work. But if the obligor owes state "B" child support and state "A" owes the obligor a tax refund, the offset theory falls apart. The majority of existing state offset legislation requires that a debt be owed to that state before an offset may occur.

Concerning withholding based upon support orders issued in other states, problems of due process become apparent as one recognizes that the order must be based on ability to pay.

6. Income Withholding

This is a country full of diversity. We believe that the individual states can write laws which will better fit their situations. A federal law which is so explicit in every detail could well prompt due process and constitutional appeals which will halt implementation of desired reforms and procedures for a very long time.

The federal government could be better served by mandating the desired results: Income withholding on child support orders - and leaving it to states to work out needed legislation to authorize and mandate procedures.

If specific wording should remain on income withholding, states should be allowed 60 days rather than 30 to make a final determination.

CONCLUSION

The National Reciprocal and Family Support Enforcement Assocation very much appreciates the time, effort and concern given by President Reagan, Secretary Heckler and her staff, members of Congress and their staff, as well as the office of Child Support Enforcement, on this issue.

We must get to the point where child support is paid on a regular basis. The burden is now on the child support system. We have to reach the position where it is as easy to get child support as it is Aid For Dependent Children. If we can move the burden of child support to the responsible parents and make those individuals responsible just as they now are for filing federal income tax returns, much will be accomplished.

There will be problems in implementing the automatic income withholding, but this will be a big step in the direction of parental responsibility. If we can get the sixty percent or so of our wage earners in this country to pay regularly, then we will be well on our way to saving some $30 billion per year that is paid in entitlement programs.

No matter how we try, there will continue to be conflict of the two dynamic forces: the need for expeditious payment versus due process.

We are concerned that expectations of non-welfare mothers will rise faster than new procedures can be put in place and staff is available to meet increased demands. Performance will not leap forward immediately on the passage of new legislation.

The U.S. House of Representatives on November 18th, 1983 took unparalleled action in support of the Child Support Enforcement program in the passage of H.R. 4325 by a unanimous vote. We hope that the Senate will be equally foresightful in preserving and enhancing this vital program.

Thank you again for this opportunity to express our views. We are convinced that tremendous progress can be made in achieving a truly effective and efficient National Child Support Enforcement Program. We pledge to do our part to make it happen.

STATEMENT OF SAMUEL G. ASHDOWN, JR., DIRECTOR, FLORIDA FAMILY SUPPORT COUNCIL, INC., AND DIRECTOR, CHILD SUPPORT ENFORCEMENT PROGRAM, TALLAHASSEE, FLA.

Mr. ASHDOWN. Thank you very much, Senators.

I am in full support of my colleagues' testimony here today, but I want to address section 7 of H.R. 4325, dealing with the $15 million entitlement to improve interstate effectiveness in the enforcement of support.

As you probably know, the process that is used by the States for interstate enforcement of child support is the Uniform Reciprocal Enforcement of Support Act, affectionately known as URESA. Unfortunately, the act is anything but uniform amongst the States; in fact, the last version of URESA was promulgated in 1968, and approximately one-quarter of the States have still to adopt the 1968 amendments to URESA.

I would like to recommend for your consideration that the $15 million entitlement have some strings attached to it one of which would be to encourage the States to adopt the 1968 amendments so that all of the States can operate from the same statutory base. Having something similar would allow States to engage, for instance, in the establishment of paternity across State lines, and other features that would bring about more commonality of operation.

Another thing I would like you to consider in conjunction with making grants to the States under this section would be to encourage the States to be uniform within the State as to how they administer the program. In fact, while URESA predates title IV-D, as you know, by approximately 25 years, we have seen very few States move toward developing one uniform approach to child support. Many States still have a separate URESA program that is administered apart from the title IV-D program. Anything that can be done to bring about the standardizing of staff ratios to workload, policies and procedures, what have you, I think would improve the program overall.

I want to thank you very much for the opportunity to be here today, and I think that the bill that is being proposed in the House is going to improve child support enforcement throughout the country.

Thank you.

Senator DURENBERGER. Thank you.

Mr. Brooks, do you have a statement that might conform to the time limit here? We might try to take your statement then ask you to wait until we get back for questions, if you are willing, all of you.

[Mr. Ashdown's prepared statement follows:]

TESTIMONY
OF SAMUEL G. ASHDOWN, JR., REPRESENTING THE FLORIDA FAMILY SUPPORT COUNCIL BEFORE THE U.S. SENATE COMMITTEE ON FINANCE ON THE SUBJECT OF CHILD SUPPORT ENFORCEMENT AND HR 4325 ON THURSDAY, JANUARY 26, 1984 IN ROOM SD-215 OF THE DIRKSEN SENATE OFFICE BUILDING, WASHINGTON, D.C.

Chairman Dole, Senator Long and distinguished members of the U.S. Senate Committee on Finance. My name is Samuel G. Ashdown, Jr. and I am here today representing the Florida Family Support Council (FFSC), an organization of practitioners in the several state and local agencies who work in the field of child support enforcement. The FFSC is affiliated with the National Reciprocal and Family Support Enforcement Association (NRFSEA) and supports the goals and objectives of that national organization. While I am the state administrator of the Florida Title IV-D Child Support Enforcement Program, I am not here today representing the State of Florida.

I would like direct my remarks to Section 7 of HR4325, which deals with the authorization of $15,000,000 annually, beginning with FY 1985, for making project grants to the several states to encourage and promote the development and use of more effective methods of enforcing support obligations in interstate child support cases.

While we applaud the efforts of the Congress in this regard, and believe that the Congress and the administration should be taking steps to improve interstate cooperation in child support enforcement, we would like to recommend that you consider the following:

First, as you know, in 1950 the National Conference of Commissioners on Uniform State Laws promulgated the Uniform Reciprocal Enforcement of Support Act, or as it is known by its acronym - URESA. This initial uniform state law was subsequently amended in 1952, 1958 and 1968. While all of the states have enacted one version of the URESA, not all have adopted the latest 1968 amendments.

There are still quite a few states which have not updated their respective URESA statute. With this in mind, we would respectfully suggest that in order to promote uniformity nationwide, all states who receive any of these project grants should first certify that they have adopted the 1968 amendments to URESA. After all, how better can the Congress ensure uniform handling of the enforcement of child support across state lines without actually preempting the field with federal legislation. It would seem most appropriate for the Congress to encourage the several states to have a uniform base from which to operate. You may want to modify this recommendation to the extent of limiting those states which have not yet adopted the 1968 URESA amendments to project grants which would be directed solely towards accomplishing that end.

Second, while the URESA legislation pre-dated the Title IV-D Child Support Enforcement Program by 25 years, the several states have, since 1975, each established an operational intrastate child support enforcement program, with uniform, statewide, written policies and procedures, and professionally trained staff and attorneys, either directly employed or under contract. Unfortunately, many states still operate separate state child support enforcement programs, one under URESA and one under Title IV-D. In the interest of improving effectiveness and uniformity among the several states we would also like to suggest that you consider encouraging the states to develop uniformity within each state. If a state does not elect to operate a consolidated URESA/Title IV-D Child Support Enforcement Program, then it should be encouraged to at lease operate its URESA program in a uniform manner. Unfortunately, many states do not have uniform standards for staffing, caseload/workload requirements, policies and procedures. While the URESA legislation provides for a State Information Agency in each state, this unit has no authority to promulgate uniform policies and procedures among the several jurisidictions within each state.

Third, and finally, we would like the Congress to considesr action which would encourage the several states to establish a central office in each state which another state could contact for the purpose of finding out what has or can be done on a particular case, whether that case is a IV-D case or a non-IV-D case. A project grant from this fund could be used to set up and staff the State Information Agency under URESA, and continued operation could be assured under the Title IV-D CSE Program. When completed, each state would have a staffed contact point for tracking down cases and ensuring that none slipped between the cracks.

In closing Mr. Chairman, Senator Long and members of the committee, I would like you to be fully informed that simply using the word "uniform" does not ensure that there is uniformity, either among the several states, or indeed, within a given state. The House is to be commended for including Section 7 in HR 4325. We would like the Senate to improve upon the goal/objective of Section 7. My testimony here today has been an attempt to shed some light on the current situation and to suggest that there are actions which the Congress and the Administration can take to help the states become more uniformly effective and efficient in how they operate their respective interstate child support enforcement programs.

STATEMENT OF IRWIN BROOKS, ASSISTANT COMMISSIONER, OFFICE OF INCOME SUPPORT, HUMAN RESOURCES ADMINISTRATION, NEW YORK, N.Y.

Mr. **Brooks**. Thank you, Senator Long, and Senator Durenberger, and staff members.

I think it is important to recognize the tremendous gains that the IV-D program has made since 1976. I think Jerry Brockmyre pointed out very clearly that we have had continuous growth and a tremendous momentum going I think that any effort to reduce the incentives or reimbursement rate at this time will certainly have an adverse effect on this momentum and vitality and that it can harm the program tremendously in terms of the encouragement that we are getting from the citizens to do more for the nonwelfare population.

I think that is very important, because in New York City, for example, the average payment to a nonwelfare family is $180 per month. That, to me, is a borderline case, and if we do not respond to that need and get those payments out rapidly, and enforce that those payments come in, that family is very, very prone to go onto the welfare rolls. I think that would be a disaster in all of our eyes, to increase the welfare rolls. So I think it is important to keep that in mind when you are looking at the incentives.

In the House bill, for example, there is a disincentive to 17 States—New York State is one of them, and Oregon and Louisiana are two others. By putting a cap on that figure, you are encouraging us to just continue to go after AFDC recoupment. As a matter of fact, on December 21 we received from the New York State Child Support Enforcement director, a memorandum that we should do just that, go after the AFDC population and increase the collections there because, otherwise, the non-AFDC factor would not give us the incentive to continue the growth there.

We have come up with a recommendation which is in my written testimony, in terms of either lifting the cap or measuring us on the growth. What we are saying is that, if we have $30 million in non-AFDC collections this year, and next year we go to $31 or $32 million, give us the percentage that we earned against that growth. That would continue the incentive on a regular basis and would not cost the Federal Government that much money.

We have a deep concern about the nonwelfare families, and we support the concept that they should have the federal tax intercept program available to them as well as mandatory payroll deduction orders. I think by doing so, we would put the same kind of teeth into the program that we have for the welfare population.

In New York City we have grown from $12 million in 1976 to $24 million currently, and we still have a ways to go. I think all of the programs have a way to go, but we cannot be interrupted now by having our resources taken away from us.

Senator **Durenberger**. Could you stop right there?

Mr. **Brooks**. Surely.

Senator **Durenberger**. I will ask you when I come back if there is anything you didn't say that you wanted to say?

Mr. **Brooks**. Thank you, Senator.

Senator **Grassley**. Mr. Chairman, will this panel be here when we get back?

Senator **Durenberger**. Yes, if they are willing, those who can remain.

Ms. **Hunter**. Yes.

Mr. **Ashdown**. Yes.

Mr. **Brooks**. Yes.

Senator **Durenberger**. Thank you very much. We will recess for 10 minutes.

[Whereupon, at 3:21 p.m., the hearing was recessed.]

AFTER RECESS

Senator **Durenberger**. We will include Mr. Brooks' statement in the record at this point.

[Mr. Brooks' prepared statement follows:]

TESTIMONY OF

IRWIN BROOKS, ASSISTANT COMMISSIONER

OFFICE OF INCOME SUPPORT

HUMAN RESOURCES ADMINISTRATION

NEW YORK CITY

I am Irwin Brooks, Assistant Commissioner of Income Support of the Human Resources Administration of the City of New York. I am pleased to appear before you today to discuss child support enforcement in New York City and express our serious concerns about proposed changes in the Child Support Enforcement Program offered by the Administration (S.1691). While we are pleased by the steps taken in the House bill (H.R. 4325), and support it, I would like to share our recommendations for further amendments to strengthen enforcement of child support obligations.

In May, the Census Bureau reported that more than half of the American men legally obligated to pay alimony or child support are in arrears on all or part of their payments. Only 46.7 percent of about 4 million women who were supposed to receive child support payments in 1981 received the correct amounts. Clearly, Federal legislation is needed to strengthen our existing child support programs, to extend enforcement tools used for families receiving Aid to Families with Dependent Children (AFDC) to all families seeking support and to provide better methods for enforcement of support orders for all child support cases. Such initiatives are vital if we are to help mothers and children collect the nearly $4.5 billion that goes unpaid annually by fathers under court orders or legal agreement.

New York City is committed to an effective and efficient child support program. We are currently monitoring child support payments for 30,000 active public assistance (AFDC) families, 15,000 closed AFDC cases with arrears, and an additional 50,000 non-public assistance families. The following data provides a picture of the size of our program:

- We receive 60,000 new cases, locate 28,000 absent parents and refer 17,000 cases to court in a year.
- We have 41,000 court appearances which result in 5,400 paternity orders, 6,000 support orders, and includes 3,600 new enforcement cases each year.
- We provide support-related services, other than collection, to 36,000 non-AFDC cases annually.

Collections for our public assistance families will be $25 million in FY 1984, more than doubling the $12 million collected in FY 1976. New York City, like other urban areas, faces many obstacles in increasing child support collections. The size, density and mobility of our population make it difficult to locate many absent parents. We also have a high proportion of parents who are too impoverished to pay support and a high proportion of out-of-wedlock cases. Yet, we have made significant gains in our program. Federal regulations provide 15 specific requirements by which to measure the effectiveness of a child support program. These include a parent locator service, a central case file, a system of collecting and reporting support payments, established relations with the Family Court and written procedures for all aspects of the program.
New York State and New York City not only have all the the elements in place, but our program's performance, as measured against these requirements by annual federal audits, is good.

As we plan for the future progress of the Child Support Enforcement Program, it is essential to focus on the needs of the children. When we speak about children and their needs, we should be talking about all children, not only those supported by public assistance. Under current law, better mechanisms are available for the enforcement of AFDC support orders than are available to non-public assistance families such as stringent payroll deduction provisions, Federal and State Tax Intercept programs and legal support in handling AFDC cases. Yet, the average monthly payment to our Support Collection Unit for a family not on public assistance is only $180. These custodial parents who are struggling to support their children need access to the same effective enforcement mechanisms. Families rely on these payments and we need to insure that monies are received regularly. If we do not effectively assist these families in collecting support from absent parents, they too may come to depend upon government financial support.

New York City is greatly concerned that the Administration's Bill (S.1619) not only fails to recognize the achievements of state and local child support agencies thus far, but would create a disincentive to further efforts at strengthening child support enforcement mechanisms for both public assistance and non-public assistance families. In addition, we do not believe that the incentive formula contained in H.R. 4325 would encourage greater efforts on behalf of non-ADC families. At this point, I would like to address the proposed legislation and discuss the financial implications and proposed enforcement mechanisms in light of our experience in New York City.

PROGRAM PERFORMANCE AND COLLECTIONS

The Administration's position - that the performance of the Child Support Enforcment Program, nationwide, has not lived up to its original promise - is not only inaccurate, but belittles the tremendous gains achieved by local programs since the inception of the program in 1975. Performance by child support enforcement agencies has always been measured solely by the dollars collected for AFDC cases only. The other IV-D program achievements which consist of establishment of paternity for thousands of children, operation of the Parent Locator Service and provision of services to non-public assistance families, are mandated components of the Child Support Enforcement Program. Yet, these efforts and achievements cannot be measured in dollars and, thus, have been discounted when performance is evaluated. Any legislation must insure that these services and activities are both recognized and sufficiently funded.

Additionally, it must be recognized that many public assistance cases are closed as a result of IV-D efforts. In New York City, we save at least $1.8 million annually which is fully shared by the Federal and State governments. These cases are closed due to the discovery of the absent parent in the home, the absence of the child from the home or the discovery that the custodial parent is actually employed. These achievements are universal to the IV-D program and should be reinforced by any legislation directed toward strengthening the Child Support Enforcement Program.

The Administration claims that current financing provisions are outdated because it is possible for a state to spend more dollars than it collects. But according to the Child Support Enforcement 7th Annual Report to Congress for the period ending September 30, 1982, only four states collected less than the amounts each spent for administrative expenses. Certainly special attention should be paid to those states where corrective action is needed and those states which are showing good progress should not be penalized. In fact, New York State collected $2.15 for each $1.00 spent and New York City collects $1.80 for every $1.00 spent. This represents an almost excellent return on the investment for administrative expenses. Nationwide collections increased from $511.7 million in 1976 to $1.8 billion in 1982. Clearly, collections have increased since the inception of the program.

REIMBURSEMENT FOR ADMINISTRATIVE COSTS AND INCENTIVE PAYMENTS

We were pleased that Congress rejected, last year, the President's proposal to restructure the IV-D program by eliminating both reimbursement of administrative expenses and incentive payments based upon actual support collections. Although the Administration has revised its proposal for financing the Child Support Enforcement Program, we must strenuously oppose the current provision of S.1691 which would reduce the Federal match from 70% to 60% for administrative expenses and repeal the 12% incentive payment. For states which have implemented many of the available support enforcement mechanisms (tax refund intercept, payroll deduction orders, wage reporting requirement), as New York has, a decrease in the Federal reimbursement rate will serve as a penalty. We strongly support the provision of H.R. 4325 which maintains the Federal reimbursement rate at 70 percent.

State and local governments have just recently experienced cutbacks in the IV-D program. In October of 1982, the Federal reimbursement rate for administrative expenses was reduced from 75% to 70%, thus, forcing state and local governments to increase their share of administrative expenses by 20% over previous levels. Additionally, in October of 1983, incentive payments were reduced from 15% to 12%. In effect, the portion of collections which state and local governments could retain as an incentive was reduced by 20%. These cuts make it even more difficult to obtain the local support needed to achieve an effective IV-D program. In New York City, an additional $1.5 million in locally raised monies had to be obtained for the IV-D program.

In New York City, S.1691 would mean a loss of an additional $4.5 million: $1.6 million in reimbursement for administrative expenses and $2.9 million in incentive payments. Although S.1691 proposes awards for exemplary performance in lieu of the current incentive payments, it is not clear that this will increase funds because of the concurrent 10% drop in the Federal reimbursement rate. Without sufficient funds, local programs will spend less money and performance will obviously not improve. Since most initiatives and improvements pay off in terms of increased collections only after several years of operation, S.1691 would create a disincentive and inhibit the momentum and growth we have all experienced.

H.R. 4325 certainly presents a preferable alternative to S.1691 in that it would maintain the current Federal reimbursement rate at 70 percent. The House bill also contains an incentive formula which measures both AFDC and non-AFDC collections. Beyond a basic incentive of 4% of collections, higher incentives would be paid on a sliding scale to the extent that AFDC or non-AFDC collections exceed combined administrative costs for both AFDC and non-AFDC. Incentives for non-AFDC collections would be capped at an amount equal to 125 percent of the state's incentive for AFDC collections. When applied to New York City's projected collections, our incentive payment would be $2.08 million as opposed to the current 12% bonus which would yield $3 million. Our incentive would be capped at $2.25 million.

At first glance, the intent of this formula appears to encourage further state and local efforts to increase non-AFDC child support collections. However, the cap on the non-AFDC incentive would have the opposite effect on programs where non-AFDC collections already exceed AFDC collections. In 17 states, including New York, Oregon, Delaware, Pennsylvania, Louisiana, Hawaii and New Jersey, non-AFDC collections already exceed AFDC collections by more than 25%. (See Appendix A.) In order to receive the maximum benefit from this formula, such states would have to focus efforts to increase AFDC collections, possibly at the detriment of non-AFDC cases where only limited program funds are available. Ironically, the proposed incentive, if not modified, could result in the reduction of support collections for non-AFDC families and, therefore, increase dependence on public assistance. Thus, we recommend removing the non-AFDC cap from the incentive formula.

In the alternative if the cap is not removed, we recommend, at a minimum, adding another component to the House incentive formula which would measure and reward non-AFDC growth. Under this approach, the incentives would be calculated as in the House bill, resulting in AFDC and non-AFDC incentive rates based upon respective cost effective ratios. However, because the non-AFDC incentive is capped, an additional non-AFDC growth incentive would be calculated by taking the non-AFDC incentive rate as determined in the House bill and then applying it to the growth (from the previous year) in non-AFDC collections. A state would then receive (1) an AFDC incentive, (2) a non-AFDC incentive and (3) a non-AFDC growth incentive. Only the basic non-AFDC incentive would be capped. Thus, an incentive would be created to encourage growth in non-AFDC collections, even in "capped" states. (See Appendix B.)

Now I would like to discuss the proposed child support enforcement mechanisms in light of New York City's experience.

ENFORCEMENT MECHANISMS

1. Tax Refund Intercept

HRA supports expanding the collection of past-due support from Federal tax refunds for public assistance families to all families. This is one of the most successful methods of collecting past due child support. In New York, such tax set-offs for public assistance families have resulted in significant collections. For example, we collected $3 million in New York City from Federal income tax refunds for tax year 1981 and an additional $3.4 million for tax year 1982. These monies are shared with the local, state and Federal governments. For families not on public assistance, where a higher proportion of absent parents are actually employed, tax set-offs should prove particularly successful. We urge that the Federal tax set-off procedure be expanded to non-public assistance families.

In addition, New York State has begun a State tax refund intercept program for public assistance families. In its first year of operation, it has already generated $2.1 million in support collections for New York City. Any child support legislation must require that states implement such procedures for non-public assistance families rather than leaving this enforcement mechanism optional with the states.

2. Wage Withholding

In New York, we have a income deduction system which is implemented after a delinquency in support payments occurs. In cases where we have implemented such orders, collections have increased by 50%. In public assistance cases, the deductions are mandatory but are not made until the support payment arrears equal or exceed the total amount of monies payable in making a specified number of payments determined by the court in the support order. In non-public assistance cases, the court may order an income deduction once therespondent is three payments delinquent and has not proved an inability to makepayments. However, our experience has shown that courts are reluctant torequire income deduction orders in non-public assistance cases.

New York City strongly supports the provision of H.R. 4325 which would require wage withholding for the collection of child support obligations for both public assistance and non-public assistance families when arrearages equal one month of support payments or earlier at a state's option. This would guarantee a steady stream of needed funds to support children in all families with absent parents, eliminate the cost of returning to court for enforcement of child support orders and prevent accumulation of arrearages.

One concern we have with wage withholding is the associated administrative costs. However, many parents need a system which tracks and monitors child support payments. We believe that there may be cases where it is appropriate for employers to forward payments withheld from wages directly to the custodial parents who are not receiving public assistance. This would help keep administrative costs low and also avoid delays in making funds available to custodial parents. In addition, we recommend that any proposed legislation for withholding wages conform with the Consumer Credit Protection Act's limitations on garnishment of wages, to insure protection for the absent parent.

3. Imposition of Security

We support the provision of H.R. 4325 which would require states to provide for the imposition of security, a bond or other guarantee to secure payment in cases where absent parents have a pattern of past-due support payments. This requirement should also be extended to absent parents who have sought to avoid fulfilling child support obligations by claiming no wage earnings while deriving income from sources other than wages. For these cases, the courts should require the posting of a bond for child support or insurance for such payments. It is important to note that security and the posting of bonds is routine in many business transactions, i.e., apartment rentals and purchase of securities. Certainly, the obligation to support one's child merits equal insurance.

4. Support and Visitation

We are concerned that language contained in Section 3 of H.R. 4325 relating to the "enforcement of child support obligations and any related obligations arising under or in connection with the support orders involved" could be construed to make financial support of a child contingent upon visitation by the absent parent. If difficulties exist between the custodial parent and the absent parent on visitation or any other issue, the problem must be resolved without allowing child support payments to become leverage for settling conflicts. This only results in hardship for the child who becomes a pawn in the dispute between the parents. Thus, we oppose any language which could be interpreted to allow child support to become contingent upon visitation.

5. Quasijudicial and Administrative Procedures

It has been the experience of some states that quasijudicial or administrative procedures result in higher collections and lower costs. S.1691 would require states to develop quasijudicial or administrative procedures to establish and enforce support obligations. This could be very difficult to implement in New York, where jurisdiction over support and paternity issues is placed in the Family Courts by our State Constitution. We believe that removing only the support cases from the Court system entirely would be cumbersome and costly. Therefore, we recommend that any legislative directive on establishing administrative procedures allow states the flexibility to fashion a procedure within the framework of existing State Constitutional mandates. In New York, we are engaged in extensive discussions with court administrators and legislators to improve and expand the use of hearing officers within our Family Court.

6. Fees for Non-Public Assistance Families

We strongly oppose the provisions of S.1691 which would require the imposition of fees for services to non-public assistance families. The proposed $25 application fee will not cover the full extent of necessary services as well as the cost of administering, collecting and accounting for fees. Ultimately, fees will result in lower support payments since a judge would have to apportion income available for child support between the fee and the actual support payment. For example, if a respondent father owes $500 and makes a $300 payment, then a 10% fee will actually reduce the payment going to the family to $270. In New York City, where the average monthly payment for a family not on public assistance is only $180 a month, a reduction in the amount of payment could force the family onto public assistance. We must provide services at no charge to families who are a step away from public assistance. This is a preventive measure; otherwise, we will bear a much greater financial burden when these families turn to public assistance. Making enforcement mechanisms available to the non-public assistance families such as wage withholding and tax refund intercepts will insure that families receive child support.

CONCLUSION

The Administration's Bill, S.1691 does not address the problems experienced by families seeking support and by those of us on the front line of administering the child support enforcement program. It simply alters the financial structure of the Child Support Enforcement Program. Although the House bill, H.R. 4325, offers a more realistic approach, its incentive formula and provisions for services to non-public assistance families must be strengthened. We need your leadership to insure that necessary reimbursement and incentives, as well as tough enforcement mechanisms, are available for states to continue to develop more effective and efficient programs.

Thank you for the opportunity to share our concerns on child support enforcement and our support for legislation to insure that children be financially supported by their parents. New York City has given a high priority to its Child Support Program and is committed to further improving it with your help and support. Thank you.

APPENDIX A

STATES WHERE NON-AFDC COLLECTIONS EXCEED AFDC COLLECTION BY 25% OR MORE:

ALASKA

ARIZONA

DELAWARE

HAWAII

KENTUCKY

LOUISIANA

MARYLAND

MICHIGAN

NEBRASKA

NEW HAMPSHIRE

NEW JERSEY

NEW YORK

OREGON

PENNSYLVANIA

PUERTO RICO

TENNESSEE

VIRGIN ISLAND

APPENDIX B

INCENTIVE COMPARISONS
($1,000,000)

State	Present Formula	House Bill	Recommended** Modification	Difference
New York*	8.23	6.12	6.72	.60
Kansas	.94	.67	.68	.01
Colorado	1.12	.87	.87	-
Louisiana*	1.16	.76	1.01	.25
Texas	1.31	.72	.72	-
California	16.44	14.10	14.48	.38
Michigan*	11.72	21.98	25.68	3.70
Massachusetts	4.86	6.91	7.68	.77
Wisconsin	4.75	4.62	4.84	.22

*Non-AFDC cap in effect

** The "recommended modification" is an additional incentive calculated by taking the non-AFDC incentive rate as determined in the House bill and then applying it to the growth (from the previous year) in non-AFDC collections.

Note: Figures Based upon FY'83 reported collections and expenditures and FY'82 non-AFDC collections.

Senator DURENBERGER. I think you all know that yesterday Bill Bradley and I introduced the House bill in the Senate not because we thought that it was better than any of the other bills, but because we felt we should get all of the ideas out here before we go to markup.

With the exception of some comments that I think Ms. Hunter made, I wonder if I could get reactions from all of you on some of the mandates that are in the House bill? Mandatory wage withholding, for example, I think in the House bill triggers in at 1 month rather than 2, and there are mandates like liens, bonds, some of those things. Could I get some brief observations from each of you about the appropriateness of those kinds of mandates?

Ms. HUNTER. Could I say at the beginning that NRFSEA does support the mandatory income withholding? OK?

Senator DURENBERGER. OK.

Mr. BROCKMYRE. The Council of State Child Support Enforcement Administrators does, also. Except, our position is that the income withholding should be immediate in all cases. And to take care of those cases that are already on the books, and there are millions of them, it would become mandated in those cases if there is an arrearage or if either party requests that the income withholding happen. If someone is current at the present time and continues to be, we don't have any problem with them staying that way. But with the effective date of the bill, with all new orders, it would be an immediate wage assignment, automatic wage assignment.

Senator DURENBERGER. How about liens, bonds, the other things?

Mr. BROCKMYRE. With the liens, it says the procedure should be established, I believe. With the bonds it says the procedure shall be established. We have no problem with that.

Senator DURENBERGER. Does anyone else want to comment on that?

Mr. BROOKS. I would like to comment on the payroll deduction provision. My concern on a 30-day wait would be for nonwelfare cases. I would like you to follow through the procedure. If there is a default in 30 days and you send out a due-process notice, which is 15 days, and with mailing time, you are going into almost another month. That is 60 days. By the time you execute that payroll deduction order with the employer, you are talking about perhaps another 30 days before he puts it through his payroll system. You now have a 90-day delay. Now, what is this family going to do during that 90-day period? So I would be concerned with it in the nonwelfare area. In welfare cases, if we wait 30 days or 60 days or 90 days, we are getting our money back, although you are building an additional arrearage during that period of time.

Senator DURENBERGER. Are you agreeing with the other witness that said to make it automatic, right off the bat?

Mr. ASHDOWN. Yes, sir. I think that is ultimately what this country needs to go to. Whether we can deal with it right away is another story. But if you stop and think about it, the father is given a piece of the judicial robe when he leaves the divorce hearing. He can determine when he wants to pay that check. He can reduce the amount; he can delay it. He is given too much control over the process, and I think this practice has just built up over a period of years with tradition.

All of the payroll offices in this country, whether they are public or private, have mandatory deductions, and they have voluntary deductions. And you know that child support is very important, it comes from the court. It ought to be handled in a routine manner. Once we make the payment of child support a ho-hum routine, Senator, I don't think you are going to see anywhere near the kinds of ridiculous problems that the country has to face because we don't have child support paid on time.

One other point is that, if it becomes routine, then if the father doesn't like it, he is forced to use the court system to change the court order. Now he can circumvent the court system and do it himself.

I think all the other features should be tools, they should be made available to the States and should be tools that the attorneys and the courts can use to help enforce support.

Mr. BROOKS. I would like to add one more thing. I think that we are all concerned about reducing our overhead and our costs. That would certainly have a very great impact on the amount of money we now spend to monitor and enforce and mail and really continuously get involved with administrative procedures to try to enforce an order that has been issued by a court in the proper jurisdiction.

Senator DURENBERGER. I want to clarify one other thing. On the paternity issue, is there any disagreement on the panel about the need to establish paternity? Is it a question of how we go about it in the bill?

Mr. ASHDOWN. I think there is a concern that there might be an unintended disincentive in the bill that could result in the States emphasizing collections, because the time that they spend on just one paternity case they might be able to enforce three cases for collections.

Ms. Hunter testified about the statistics in Louisiana. In Florida about 50 percent of the kids on AFDC are illegitimate.

Senator DURENBERGER. Is that the point you were making about the cost?

Ms. HUNTER. Yes, that is what I was trying to convey.

Mr. ASHDOWN. And HHS right now says they are in favor of establishing paternity, in the administration's bill. The earlier bills, of course, did not have anything specifically in there. I think there is a provision in H.R. 4325, but there is a need for more incentives for paternity establishment.

Senator DURENBERGER. Have any of you in your written statements made an argument for the cost effectiveness of establishing paternity? If we want to take them on their word that this ought to be cost effective, I am sure an argument could be made that, even though it initially is 3 to 1, putting your time into the paternity might ultimately be more cost effective.

Ms. HUNTER. But it is such a long-range cost effectiveness, and your costs are immediate.

Mr. BROCKMYRE. At the present time there is a contract or a study being done by HHS to determine or to help determine the cost effectiveness of paternity establishment. I don't think anyone on this panel is sure where it is at the present time, but it has been let, and it is being done at the present time.

Senator **Durenberger**. Let me ask you, as the experts, a judgmental question: Is there any doubt in your minds about the cost effectiveness?

Mr. **Brooks**. Well, Senator, I don't think we have any choice, because we have to go through a certain process to find out whether that individual, that absent parent, has any financial means to support the child. So we have to go through the initial process of trying to locate that individual. And in most cases, they don't want to cooperate with you, so you have to go through the court process, to get them in a court, so that they can attest to what their financial resources are. And while they are there, we do establish the paternity. So there is a tremendous cost factor right up front before you know whether you are going to get any support out of that case or not.

In New York City, we get over 5,000 paternity orders a year. We get 6,000 support orders a year. How we would come out if we tried to assume that we would not get a support order up front, you know, I don't think we could do that and estimate the reduction in cost right up front, because we don't know too much about that absent parent.

Mr. **Ashdown**. Senator, I would just point out that an illegitimate child is entitled to 18 years of AFDC.

Senator **Durenberger**. OK.

Building on the subject of AFDC and the transition of people who move from AFDC to something else, I have a concern about health care coverage that perhaps one or the other of you might address to. I think I have proposed that there be at least some continuity of medicaid coverage for some period of time; 4 months, or something similar.

Would any of you encourage us to do that? The administration doesn't like that idea, because theoretically it costs money.

Mr. **Brockmyre**. I did a survey of the States on that—that was one of the questions. What most of the answers that came back were: 'I cannot comment on this, because this is a medicaid issue.' If you are asking personally, I don't have any problem with it, but I don't know what kind of problems medicaid would have with it.

Senator **Durenberger**. Well, I would ask you each, just from your experience—again, applying your individual judgments—do you see cases in which some coverage during some period of time would be appropriate? What does happen during that period of time, from your experience, if you know, with regard to health care coverage? Do they try to accumulate some earnings before they even go out and buy a policy? Do they find that usually policies are not available to them because they have to buy them on an individual rather than a group basis? Do you know what the situation is with regard to the purchase of health care coverage?

Mr. **Brooks**. I don't know specifically, Senator, but I do know that $180 a month to a nonwelfare family is a borderline situation, and I don't know where they are going to get the necessary funds to maintain their health insurance with that kind of an average income.

Mr. **Brockmyre**. We have health care in most of the order in Michigan. The problem is enforcing them, because people move—they go from job to job, those kinds of things.

Then you don't have a record of whether or not there is health care at the new business if they are working for the automobile plant at one time and working for someone else the next time.

The Friends of the Court have not historically enforced the medical portion of the orders. They have been in the orders, but there is a question, previous to July 1, 1983, on whether or not it was their responsibility to enforce that. It certainly is an issue, health care.

What my counterparts are afraid of is that the emphasis will go toward health care and take away from the child support. That is a fear in the back of their minds, that you will pay off a $20,000 health care bill, but you won't get any child support because they don't have any money.

Senator **Durenberger**. Are there any other comments on that question?

Mr. **Ashdown**. I think all of the States experience what we call the flip-flop effect, where a mother goes off AFDC, perhaps because enforcement of child support, and then the father doesn't pay the following month, and she is right back on. That's a very frustrating situation.

On the other comment that Jerry made, there is great concern that the States will be required to get out there and enforce health insurance on the non-AFDC cases, and even to some extent, perhaps, spend more resources in time that would take away from actual child support. I don't know how you deal with that issue.

Mr. **Brooks**. Senator, I would like to make one additional observation. The program has really never been evaluated on a true basis We have been measured with the expenditures, with AFDC collections. We have never been given credit for the paternities we established, for the non-AFDC services and collections, and also the welfare cases that we closed because of the IV-D efforts. I think that has been an inequitable barometer of the program up to now, and I think these people here and all of us have been in it for quite some time. We are proud of the accomplishments that we have made, and we know that there is still more to be done.

Again, I urge you that if you take the resources away from us, it is going to be very difficult.

Senator **Durenberger**. My last question is, again, on the basis of our experience in Minnesota, and other places. I put in my original proposal some suggestions for changing to quasi-judicial procedures in this process. Would you lend us some encouragement to move in that direction?

Mr. **Brockmyre**. The council supports that. The problem is, we don't know how to define it. And I think that is the problem with everybody.

Senator **Durenberger**. That is what my staff tells me, too, and I say there has got to be a way.

[Laughter.]

Mr. **Brockmyre**. We have a quasi-judicial system in Michigan. They have a quasi-judicial, I think, in Delaware. This afternoon, Wisconsin was mentioned. But they are all different, and I am not sure how HHS is going to define the rules and regulations around the legislation. But we do support it. We have recommended it for 2 years now to HHS, and that is the position of the council.

Ms. **Hunter**. Senator Durenberger, NRFSEA supports the quasi-judicial or administrative process. The point I was making in my testimony was that I really feel like there is such a diversity throughout the country that the States can best determine the system. As he is saying, they vary so from State to State.

I think we need the mandate, or whatever it is, from the Federal Government to tell the States, "You must be more effective; you must improve your performance; you must expedite the process, and you must show us performance results."

Senator **Durenberger**. And then an incentive to make sure that it is more than a string, a financing incentive.

Ms. **Hunter**. That would be one thing. But I was talking about paternity incentives. That would help. But the thing about it is, if you mandate just one particular type of process, aren't you really more interested in getting the results rather than the process? That is my point.

Senator **Durenberger**. Yes.

Mr. **Brockmyre**. If we could define the results.

Mr. **Ashdown**. Senator, I would even point out that within States, you might have some jurisdictions where the courts couldn't be much tougher, and you might have some other jurisdictions where a quasi-judicial or administrative process might improve things tremendously, and the judges in that area might really like it. You have a mixed bag.

Mr. **Brooks**. Senator, in New York, State we do have a quasi-judicial system, and it is not working. So we are going back to the legislature this year trying to correct it. Our problem is that the constitution of New York State requires that it be within the family court jurisdiction, and we have problems within the family court. That really is the basis for the problems in getting our cases through more rapidly.

Senator **Durenberger**. All right.

Thank you all for your testimony and for your contributions over the period of time we have been debating this issue.

Mr. **Brooks**. Thank you.

Senator **Durenberger**. Our final panel consists of Michael E. Barber, deputy district attorney, Sacramento County, Calif., representing the National District Attorneys' Association, accompanied by Samuel V. Schoonmaker, representing the Family law Section of the American Bar Association; and Terrance R. Brown, Chief, Child Support Division, San Bernardino County District Attorney's Office, San Bernardino, Calif.

Your entire statements will be in the record, and you may abbreviate them according to the guidelines we have provided all the witnesses.

Mr. Barber?

STATEMENT OF MICHAEL E. BARBER, DEPUTY DISTRICT ATTORNEY, SACRAMENTO COUNTY, CALIF., REPRESENTING THE NATIONAL DISTRICT ATTORNEYS' ASSOCIATION

Mr. **Barber**. Thank you, Mr. Chairman, and members of the committee. I want to thank the committee for allowing us to make this presentation concerning H.R. 4325.

Hopefully we have come to the end of a long road in this matter.

I want particularly to introduce Mr. Schoonmaker, on my left. Mr. Schoonmaker is the past chairman of the Family Law Section of the American Bar Association and has presented to you written remarks, and he has graciously given of his time to come down here to respond to questions concerning those remarks and make a statement as well. If the Chair would allow, I would turn over any time that I have to Mr. Schoonmaker to elaborate on those written remarks.

Let me just talk briefly on the California district attorneys and the National District Attorneys' Association.

I want to point out that in my written remarks I have listed seven major concerns of the National District Attorneys' Association—that is on page 2. These are also concerns of the California District Attorneys' Association. In addition, on behalf of the California District Attorneys' Association, I have a number of other issues that I have addressed, although I cannot say they are at the same level of priority as these particular issues.

The first is the need for a level of funding comparable to the present level. Prosecutors at the local level are quite concerned that, in the construction of this funding system, the bottom line will be that they will lose their present funding for child support enforcement, that somehow, when all the cards are shuffled and dealt, they are going to come out short dollarwise. This was the first and foremost item, in my discussion with the Family Support Committee of NDAA, that they raised.

A second issue is the removal of the 125-percent cap on nonwelfare incentives. Over the short run it is possible that this cap will effect the transition properly between the present 12-percent incentive to all cases, but over the long run it is going to encourage you to keep in the bank enough welfare cases so that you earn your nonwelfare money. I don't think keeping people on welfare is Congress objective.

Protection of paternity funding has been addressed.

The passing through of incentives to local government is of vital importance to the district attorneys. I think you can understand that; I have addressed that in my written remarks.

Continuation of the 70-percent FFP is also addressed in my written remarks and is extremely important, not only symbolically but factually. I hear conversation from time to time that "Well, we can shave a little here and shave a little there," but there is something about straws and camels' backs. Five percent was already shaved off that last year. Shave a little more and local jurisdictions, still not flush with cash, are going to have to back away or cut back their programs.

I have addressed in my written remarks the proposed 466(a)(2), the open-ended power to change marital law by regulation.

Finally, an item that is endorsed by practically everybody, extension of the Federal tax intercept program to nonwelfare cases. I have a detailed statement about that in the record, but I have, for this committee's review, a copy of a Federal district court case—"Keeny"—which in fact supports the position taken by the California District Attorneys' Association concerning intercept of joint returns, and it addresses due process concerns previously addressed by this committee in which the intercept program of the Federal district court in Los Angeles was upheld in total.

Senator **Durenberger**. We will make a copy of that decision a part of the record. Thank you.

Mr. **Barber**. Yes, sir. Thank you.

I would like to close by thanking the committee again. I think we have come a long way in terms of recognizing the fact that abandonment of children, nonpayment of support is a crime, whether or not they are on welfare. The incentive scheme proposed here tends to recognize that. Whether or not it is perfect, it probably can be added to. I hope that my remarks will encourage this committee to augment it, change it, and alter it. But in any event, I very much appreciate this committee's work, not now but for the last 10 years, in trying to put forward a truly adequate child support enforcement scheme on behalf of the children, in support of the courts and law enforcement in this country.

Senator **Durenberger**. Thank you very much, and let me thank you and your colleagues for your past help in this process.

Mr. Schoonmaker, do you want to add some remarks before we go to Mr. Brown?

[Mr. Barber's prepared statement and a copy of the Keeny Case decision follow:]

STATEMENT OF

MICHAEL E. BARBER

on behalf of the

NATIONAL DISTRICT ATTORNEY'S ASSOCIATION;
CALIFORNIA DISTRICT ATTORNEY'S ASSOCIATION;
and the
CALIFORNIA DISTRICT ATTORNEYS'
FAMILY SUPPORT COUNCIL

before the

COMMITTEE ON FINANCE

of the

UNITED STATES SENATE

concerning

Child Support Enforcement
Reform Proposals

January 26, 1984

Mr. Chairman, Members of the Committee

I am Michael E. Barber, Legislative Advocate, California District Attorneys' Family Support Council, and a member of the National District Attorney's Association Family Support Committee.

First, I wish to thank you for the opportunity to present this testimony on behalf of the California District Attorneys' Association and Donald Stahl, its President; its subsidiary, the California District Attorneys' Family Support Council and Edwina Peters, its President; and the National District Attorney's Association and Edwin L. Miller, its President.

The subject of this testimony, HR 4325 is the culmination of over two years of effort on the part of state and local representatives to try to resolve conflicts with federal authorities concerning funding and remedies for enforcement of support. Preliminarily it should be said that this bill is a substantial improvement over prior efforts. It is also significant that there now appears to be a consensus that failure to provide support is a crime whether or not the victim is on public assistance. Still with all that, HR 4325 could be modified to better meet needs of the program.

In general terms its limitations revolve around broad grants of authority to the Secretary of Health and Human Services to change state law by regulation. This complaint is directed at no particular Secretary. The sincerity of the present officeholder's support for this program is obvious and well appreciated. However, Secretaries come and go. There were at least four in the Nixon-Ford years, two in President Carter's term of office, and already two in this administration. Those of us who have worked in this program for many years in trying to get the law enforced have a healthy suspicion of the commitment of the bureaucracy to strengthening the program. The apparent association of the funding of this bill with welfare collections and the doubtful" effectiveness" criteria of cost collection ratios seems symptomatic of the problem. The fact that even this totally committed administration appears to shrink from full use of one of the most effective tools available for support enforcement, garnishment of tax refunds, is but more evidence that federal regulatory authority would more likely impede rather than impel support enforcement

Finally, it must be stated that the National District Attorney's Association has had time to take a position only on specific issues. This is because the ability to obtain a quorum in a timely manner to review the bill as a whole has been very limited. Thus, it has concentrated on what it believes to be the bill's most important provisions. Philosophically its approach is the same as the California District Attorneys. The seven issues which it was able to address were :

1. The need for a level of funding comparable to the present level.
2. A removal of the "cap" on nonwelfare incentives
3. Protection of paternity funding.
4. Passing through of incentives to local government.
5. Continuation of 70 percent federal financial participation.
6. Removal from the bill of open-ended power to change marital law by regulation.
7. Extension of the federal tax intercept program to nonwelfare cases.

With those preliminary remarks let me be more specific. In analyzing this bill I've divided it into three categories. Fiscal and Administrative activity is the first, Mandated State Laws the second, and concepts that might be added by amendment, the third.

As to the first, fiscal and administrative portions of the bill we in general support the bill. If all parties are treated fairly and the objectives of the bill are kept to the fore then these concepts will lay to rest the funding controversy that has bogged down this program for the last several years. However there are some much needed improvements if these goals are to be reached.

I ADMINISTRATIVE AND FISCAL PROVISIONS

A. Improvements in Incentive Funding Proposal.

California endorses the idea that performance incentives should apply to both welfare and non welfare cases. This concept will, if allowed free rein, encourage jurisdictions to get families off welfare. However, it is of particular concern to the National District Attorney's Association, that assuming a continued comparable local effort, the amount of funds made available under the present 12 percent incentive not be reduced. And there are other major concerns.

First, unfortunately the proposal has been restructured in the House to impede the aim of getting families off A.F.D.C.. Encouraging collection of child support to get and keep families off aid for dependent children makes good social policy. It fosters pride, independence, and a respect for law. It also is good fiscal policy since it costs five times as much to administer AFDC cases as it does a child support case, at least in California. Yet in the bill proposed Section 458(a)(2)(B) limits the amount of incentive for nonwelfare to 125 percent of collections on welfare cases. While limiting this incentive level by the welfare incentive level might be benign in the short run, the long run impact of this limit will be to punish the jurisdiction that materially reduces the number of cases receiving AFDC. Should a jurisdiction destroy that welfare base there would be no bonus incentives. It is recommended by both the California District Attorneys' Association and the National District Attorney's Association this limit be stricken from the bill. If it is not stricken at this time, it is recommended that at some subsequent time Congress review the negative impact of the limit on shifting support responsibility from AFDC to responsible parents.

Second, in computing bonuses in the original bill paternity costs were excised from the cost-collection ratio. Thus the long term social investment in obtaining two legal parents for all children was recognized as a separate program goal. Unfortunately this goal was retreated from as the bill made its way through the House. Now only blood test costs may be excluded. Both the National District Attorney's Association and the California District Attorneys' Association recommend the Senate restore the original exclusion or the bonuses will be meaningless in jurisdictions that have heavy paternity caseloads.

Third, HR 4325 recognizes a fact of life about our legal system, for the most part divorces and paternity judgments are entered and orders enforced at the local level. Proposed 458(e) provides that incentives will be paid to the local subdivision. But the statute uses without definition "an appropriate share" as the amount to be paid locally. It also gives the Secretary regulatory control over this appropriate share and permits the Secretary to veto any state plan for distribution. It is submitted this is too much power at the federal level. Further it could foster a political basis for distribution rather than one based on efficient operation. The California District Attorneys' Association and the National District Attorney's Association recommend this provision be strengthened by deleting the power of the Secretary to regulate or approve distribution plans, and that incentives should be computed based on the individual costs and collections of the various political subdivisions rather than on statewide totals. There should be no equivocation on the rule that the governmental entity that does the work gets the incentive. Planning local budgets based on local efforts and firm incentives will help the program. Basing the budget on HHS regulations and its plan approval process will not.

B. Clarification on how assigned support is to be distributed in child support cases:

Section 458 has been rewritten in HR 4325. This is a matter of particular concern in California. In this revision the only guide available as to the meaning of the word "family" in the distribution of collections has been eliminated. In the present statute "family" is the family of the absent parent. Under AFDC definitions "family" can include all residents of the household. This issue becomes significant where the household includes children by different fathers, stepparents or resident males, or both classes of individual. It is not too difficult to anticipate litigation brought by a parent supporting his children to bar the IV-D Agency from using such funds to support others in the household. There is already litigation before an Appellate Court in California in which it is proposed that the mother's share of the grant be excluded when computing the amount to be reimbursed from the child support collected. Because the court may order its own formula which could result in demands for repayment of some of the billions collected, this hangs over the program like a dark cloud. My personal recommendation is that Congress state in law what is already self-evident, that is the custodial parent or relative's share of the AFDC grant constitutes funds necessary to provide a home for the child or children in the home. Where there are children by multiple fathers the mother's share is divided equally among the children to determine how much AFDC is to be reimbursed per child. Unrelated adults and unrelated children on AFDC are simply excluded from the computation, unless it can be shown they provide supervision to the related child. When a child leaves AFDC because of support funds the excess, if available for current expenditures of the household, is construed as unearned income to the mother, to be reported as such when received. Thus the household gets some benefit from these funds and yet the taxpayer is not unduly punished. In any event, with the modification Section 458 the issue must be addressed.

C. Fees for the use of a public trustee:

HR4325 is contradictory on this issue. It in effect prevents charging a fee to the family previously on welfare but mandates such a fee to the family not on welfare who accesses the same system It charges the fee to the applicant but fails to even address the issue where the court on its own motion or based on state law orders payment through a public trustee. Use of a public trustee system cuts cost of enforcement and provides a faster means of identifying problems. States have decided not to require fees for this reason. The California District Attorneys believe it would be better if this were left up to the states, as is now the law, with a federal limit thereon so as not to inhibit needy persons from applying to the system for help.

D. Statistics on percentage of cases fully and partially paid up:

The California District Attorneys' Association and its Family Support Council support this so long as the statistics are compiled by mathematically sound sampling methods and correlated with the amount of the order.

E. Interstate collections:

Here again the issue of fees creates a barrier to enforcement on behalf of California. It is suggested these be eliminated. Also, blood tests in that portion of these cases involving paternity should be funded at a 100% rate.

F. Retention of the 70% subvention of cost:

The radical shift from incentives based on welfare collections to total collections can be supported only if reimbursement of 70% of cost is retained. Cutting this will demoralize the program. Both the National District Attorney's Association and the several California organizations represented here do not believe this can be stated too strongly.

G. IV-E Funding:

This oversight (i.e. the loss of funding authority in 1980) should be corrected, as is done in HR 4325.

H. State Commissions on child support:

The federal mandate is not funded nor is it broad enough. As a result these bodies will have neither the financial nor intellectual resources to fully perform their duties. The California District Attorneys recommend these should get 70% funding and be required to include practitioners in the field of family law.

I. Providing information to credit agencies is supported without comment by the California organizations before you. It is long overdue.

II MANDATED STATE LEGISLATION

A. Mandatory Income Withholding.

This matter has already been discussed at length in earlier testimony by letter to Senator Armstrong, dated December 8, 1983. Briefly, the objections of the California District Attorneys to the present proposal are as follows:

1. Prior notice of the petition to the Court for an assignment is required to be served on the obligor. We are opposed to this. Under California case law a defendant is adequately protected by a hearing contemporaneous with seizure. This balances the right to such a hearing with the need for prompt support.
2. Service of notices on the obligor must be apart from the employer under HR 4325. It is recommended that service be permitted through the employer. The present provision permits the obligor to avoid

payment by avoiding service of notice. If enough is known to permit a wage assignment to be effected, then service through the employer should protect the obligor without hampering the obligee.

3. It should be made clear the assignment applies to all regularly paid sums, such as pensions funds, commissions, dividends, etc.
4. The service and implementation of a wage assignment should not in any way be used against an obligor as a basis for discharge from employment.
5. State clearly that the assignment may be used to collect past-due as well as current support.

B. Improvement of Procedural Efficiency.

Proposed 466(a)(2) gives a broad grant of authority to the Secretary of Health and Human Services to write regulations that would in effect mandate procedural changes in the methods by which states establish child support and related obligations. This broadly written license to the Secretary for all practical purposes gives the Secretary the power to rewrite marital law for the fifty states. It is strongly recommended by both the California District Attorneys and the National District Attorney's Association that this section be stricken. Should there be a need for a uniform nationwide marital law, it should be written by Congress after public hearings and the several levels of public review afforded by the legislative process. H.H.S. lacks the expertise to draft such a code. If in fact some body outside the legislative process should develop such a code, then it ought to be one appointed for this purpose, a proposal I will discuss later.

C. Mandated Liens on Real and Personal Property.

While this is in effect now throughout the country as to real property, the personal property lien poses some problems. Anything that is not considered land, but is moveable and severable therefrom is personal property.

This ranges from the shirt on the obligor's back to such items as boats and planes he, or she, may own. There is no limit on what types of personal property may be brought under the lien. Conceivably, funds in a bank account could be brought under a lien. Such a lien need not require funds be presently due to be in existence. Thus, the open-ended mandate in HR 4325 could unconscionably confuse the ability of an obligor to perform simple economic functions, since even though the obligor was paid up, transfers of money or personal items could be held up until the obligee so certified. It is recommended by the California organizations before you that the language concerning personal property be dropped from this mandate.

D. Paternity Statute of Limitations.

California's District Attorneys support this mandate. However, it is hoped that committee comment will make it clear that raising the statute of limitations to age 18 is not intended to mandate that cases now be brought on behalf of all teenagers heretofore excluded by the present statute. Nor should it be construed as a limit on the maximum age when litigation may be commenced if local law permits paternity cases to be filed on behalf of an adult.

E. State Tax Refund Offset or Garnishment.

This provision is supported but it is believed the objectives of this bill will be facilitated if the mandate is extended to nonwelfare cases. While not specifically addressed by the National District Attorney's Association, this is philosophically consistent with their position on federal refunds.

F. Posting of a Bond or other Security.

This concept is supported by the California District Attorneys without comment.

III PROPOSED ADDITIONS TO THE FEDERAL STATUTE

The suggestions herein are a condensation of my prior testimony submitted to Senator Armstrong on December 8, 1983. For a detailed statement, please review that letter.

A. Extend the I.R.S. Intercept Program to Nonwelfare Cases. This will save administrative cost in both IV-A and IV-D. Insofar as it impacts withholding, it increases the cash flow for current support. This is conceptually already supported in federal law under I.R.C. 6305. The National District Attorney's Association specifically endorse this change in the law.

B. Modify and Clarify the Law Concerning Administration of the Tax Intercept Program.

   1. Reduce to a statute federal case law that makes it clear funds withheld are federal property and that a refund, once approved, is a debt owed the persons claiming a refund.
   2. Reduce the delay and number of agencies dealing with refunds by forwarding claimed amounts directly from regional centers to IV-D agencies.
   3. As to the right to hearing, recognize by statute that liquidated debts in the form of support orders may be distinguished from unliquidated debts, such as student loans. Make it clear that the hearing that resulted in the order for support is sufficient so long as a hearing after seizure is available.
   4. Clearly state repayment agreements at the state level do not preclude seizure of the refunds, assuming there is a court order for support. Such agreements are frequently for the convenience of the defendant to avoid a contempt citation.
   5. Give priority to court-ordered support over other debts of the obligor.
   6. State in bankruptcy cases that the bankruptcy courts consider these setoffs, thus permitting recoupment therefrom.

   7. Apply California marital property concepts to the I.R.S. intercept. Under California law, a debt owed the family is (unless otherwise exempted) garnishable to meet all support obligations, including those arising before the marriage. The unobligated spouse should be entitled to reimbursement from the marital property of the obligated spouse. This concept has recently been upheld at the federal district court level in the case of "Keeny."

C. Consider Giving Nationwide Scope to Support Orders.

   1. Give IV-D agencies the power to issue wage assignments that reach any employer subject to the jurisdiction of any United States or state court. Limit the impact to current support. Require a valid support order as a prerequisite to issuance. Give the obligor easy access to an adjudicative forum to test the validity of the support order. Incorporate heavy and easily enforceable sanctions against any employer who fails to abide by the order.
   2. Simplify the present provisions concerning use of federal courts to enforce orders (42 U.S.C. 660) by permitting registration thereof at that level and giving such courts execution and garnishment process nationwide scope.

D. Bankruptcy Reform.

   1. Prohibit repayment plans under Chapter 13 involving zero repayment.
   2. Provide for access by the child support creditor to post "13" earnings.
   3. Make it clear paternity, interstate and welfare recovery support orders are nondischargable.
   4. Make it clear that seizure of refunds is a valid setoff under Chapter 13.

E. Federal Commission on Child Support Enforcement.

1. Place before such a commission the issues now covered in proposed Section 466(a)(2). These are simplification of support procedures, amelioration of animosity in a divorce, and encouragement of visitation and shared parental responsibility. It should be noted the National District Attorney's Association has also endorsed this position.
2. How to deal with the burgeoning illegitimacy rate.
3. Setting a national child support scale.
4. Limits on the degree of involvement of Title IV-D in the private practice of marital law. More specifically, should Title IV-D deal with modifications of existing support orders in nonwelfare cases? Should such agencies make recommendations on custody and visitation? Should spousal support and support for disabled adult children be collected under this program?

IV CONCLUSION.

Title IV-D has been a success in the face of overwhelming and continuing opposition. It has brought about a significant rise in the amount of support collected, the number of proven paternities, and the number of cases receiving support. Coincidental with its success has been a leveling out and reduction in the number of people on Aid for Dependent Children. However, all this has not been without a cost. It is this cost and questions concerning this cost that have resulted in the continuing review of the program that has occurred over the past three years. This debate has taken its toll on the program. It has resulted in a reluctance at the county level to continuing to provide staff for the program as county executives try to anticipate a drastic cut in federal funds and a shift in priorities at the federal level to recovering welfare costs and nothing else.

It is hoped that HR 4325 and the overwhelming vote it received in the House of Representatives has at last brought this to an end and we can all get back to the job of enforcing support and proving paternity. And that we can now get the long-term staff growth necessary to do this job effectively. But the broad grants of regulatory authority to H.H.S. in HR 4325 leave this hoped-for peace and productivity in some doubt. H.H.S.'s unwillingness to forcefully advocate seizure of federal tax refunds for nonwelfare cases is symptomatic to those of us in the field of that agency's ambiguous attitude toward the program. While they want an efficient program, they seem reluctant to take the political steps necessary, at least as to refunds, to make the program more efficient. They are concerned about cost but do not seem to realize that unnecessary procedural delays they appear to advocate will raise the cost of the program. To then grant H.H.S. broad regulatory authority as is in HR 4325, I submit will continue the uncertainty that has plagued effective county level enforcement. It is hoped that I have persuaded you in this testimony that such regulatory authority ought to be curbed in the Senate version of this bill. If that is done and if we local prosecutors are given truly long-term solid financing, I believe the program will continue to succeed to an even greater degree than ever before.

I want to thank the Chairman and this Committee for allowing me to present this testimony.

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STATEMENT OF SAMUEL V. SCHOONMAKER III, IMMEDIATE PAST CHAIRMAN OF FACILITY LAW, ON BEHALF OF THE AMERICAN BAR ASSOCIATION SECTION OF FAMILY LAW

Mr. **Schoonmaker**. Thank you very much, Senator Durenberger.

I would like to mirror what Mr. Barber has just said. The family law section of the American Bar Association is in favor of this legislation, although the section opposes in principle Federal legislation mandating specific State laws.

Historically, family law has been the province of the States, and we feel that should continue; however, in this particular case, we have accepted and approved the Federal presence implicit in this bill, because the Federal Government is in the best position to insure uniformity of treatment of the public in the area of support enforcement.

One of the major reasons for our position is that the cost of enforcing support rights through private counsel is very high and often prohibitive, and the bar feels that this high cost of enforcement inhibits enforcement and can actually, by lack of enforcement, cause serious financial distress on a number of people.

We have to find, a way of enforcing these rights that people can afford, especially people toward the lower end of the economic spectrum. For the well-to-do, enforcement is something they can afford; for the people at the bottom end it is something they can't, and we have to find a mechanism to do that. This seems like a better mechanism than anything we have in place, and we endorse it for that reason.

For the same reason, we would just like to mention the parent locator service. We would like to make the point that the parent locator service should be made available to the private bar so that the private bar can find the people against whom to enforce these support rights. One of the biggest costs lawyers have in enforcing support rights is in not being able to find the people to enforce them against. If we had better access to the parent locator service, I think we could provide that service to the public less expensively—as a matter of fact, I know we could provide it less expensively than we do today.

Thank you very much

Senator **Durenberger**. Thank you very much.

Mr. Brown?

[Mr. Schoonmaker's prepared statement follows:]

STATEMENT OF

SAMUEL V. SCHOONMAKER, III
IMMEDIATE PAST-CHAIRMAN
SECTION OF FAMILY LAW

on behalf of the

AMERICAN BAR ASSOCIATION
SECTION OF FAMILY LAW

before the

COMMITTEE ON FINANCE

of the

UNITED STATES SENATE

concerning

H.R. 4325, Child Support Enforcement Program
Reform Proposals

January 26, 1984

SUMMARY OF POINTS

I. Introduction - The Family Law Section of the American Bar Association supports HR 4325 but also makes a number of recommendations for improvement in various areas including financing and mandated state laws.

II. HR 4325 meets a fundamental goal of the Family Law Section to ensure equal treatment of all children in the enforcement of their rights to support.

Mr. Chairman and Members of the Committee:

My name is Samuel V. Schoonmaker III. I am Immediate Past-Chairman of the Section of Family Law. I appear today to express the views of that Section concerning H.R. 4325, child support enforcement legislation. The views I express represent only those of the Section, and should not be construed as representing those of the American Bar Association as a whole.

The Family Law Section supports passage of HR 4325 subject to several recommendations for improvement. In reviewing the Act these recommendations were broken down into three sections.

A. Financing and Administration:

1) Financing

The Section approves of the 70% financing of the costs of the program. The incentive structure is approved with a qualification. The fact that this would help non-welfare enforcement and improve its quality is consistent with prior ABA and Family Law Section policy that this enforcement program be applied for welfare and non-welfare families without discrimination. However:

a) Congress is urged to add language to H.R. 4325 to ensure that these incentives will be forwarded to the level of government that does the enforcement work, whether that is at the state level or at the county level; and

b) in computing the incentives Congress is urged to exclude total cost of paternity litigation, not just blood tests as H.R. 4325 now does. The present language of H.R. 4325 will impair paternity proof efforts.

2) Public trustee for all support payments.
The Family Law Section supports payment through a public trustee of all support payments. This will encourage responsibility, decrease fraud, and simplify proof. Because such a course of conduct primarily benefits the public and because fees become a collection problem, the present language of HR 4325 should be amended to leave imposition of these at state option. Access to such a trustee after a family goes off A.F.D.C. is part of HR 4325 and heartily endorsed. No fees should be charged on interstate cases. There is no need to tie this public trustee to the wage assignment law as presently stated in HR 4325.

3) As to the requirement that states report percentage of cases fully and partially paid up, the Section also expresses its approval. But this should be done by random sample and should also include information on the amount of the order. The expense of accumulating this information on all cases would be excessive.

4) Federal Parent Locator Service:

HR 4325's expedited access thereto is supported, but it is requested access for the private bar thereto be simplified and publicized. This feature is currently not well known and thus underutilized by private practitioners.

5) The Section approves without comment:

a) the publicizing program;

b) the waivers necessary to attempt the Wisconsin experiment;

c) the use of credit agencies as a vehicle for disseminating critical data on defaulting obligated parents;

d) the extension of funding for support enforcement for children in foster care (Title IV-E); and

e) the support enforcement for spousal support where child support is also ordered.

6) Funds of the Secretary of H.H.S. for improvement of interstate enforcement.

This item is approved, but it is requested the Secretary work specifically for the following goals:

a) Elimination of Multiple Orders. All too frequently even after a divorce or paternity support order is entered because of changes in residence of parties, U.R.E.S.A. actions are filed and orders entered thereon that are at variance with the initial order. These result in orders that may be less than the original entered without a full and fair hearing, thus hurting custodial parents and children. Or, they may be enforced at the same time as the original order unfairly resulting in a double collection from the obligated parent. Requiring payment of all support nationwide through public trustees may resolve this.

b) Interstate paternities: In such cases the federal government should pay 100% of the cost of blood tests, rather than the present 70%. This will expedite resolution of such cases.

c) Fees: Because of the confusion resulting from fees, there is a continuing breakdown in enforcement of interstate cases. To eliminate this problem the Secretary should consider eliminating such fees.

B. Mandated State Laws:

The Section opposes in principal federal legislation mandating specific state laws. However, the Section does not oppose passage of HR 4325 even though it incorporates such legislation. It recognizes that the federal government has an interest in protecting its substantial investment in support enforcement. But state lawmakers have not been impervious to recommendations thereon and such recommendations can be better tailored to the states total body of law than a rather rigid precept written in Washington, DC. If such law is believed necessary, it is recommended that these following improvements be made to the proposals in HR 4325.

1) Regulatory power of the Secretary of H.H.S.:

We urge Congress not to delegate regulatory power to the H.H.S. Secretary so as to permit that office holder to, by regulation, order changes in state law. The Section would prefer the lawmaking power be retained in Congress.

2) The Section recommends changes in the required wage assignment provisions as follows:

   a) Amendments to require that distribution of funds seized thereunder be stayed pending a hearing if evidence is presented to the enforcing agency to show that the beneficiary of the support order has died, become emancipated or has disappeared, or that custody has been given to the obligated parent. The hearing must be within 30 days of receipt of this information if the assignment order has not been recalled sooner.

b) Permit service of all notices and other process to which an obligor is entitled under this Act to be performed through the obligor's employer.

c) Permit the hearing on any claims of exemption of the obligor to be held contemporaneous with the service of the order on the employer and initial seizure of funds. The inconvenience to the employee/obligor will be slight. The prompt protection needed by the abandoned family out- weighs the risk of error.

d) Do not permit issuance of a wage assignment order until the underlying support order is otherwise enforceable under state law.

e) Extend the concept to all regularly paid periodic income of the obligor.

f) Where there has been a prior hearing let the amount seized under the order exceed the limits of the Consumer Credit Protection Act, up to 100% of the specific form of periodic income to which the assignment is to apply.

g) Specifically state that no seizure under any wage assignment order shall be considered a garnishment that could otherwise result in an employee's discharge under the Consumer

Credit Protection Act. To permit discharge because of a wage assignment or child support garnishment would defeat the purpose of the order.

3) As to procedures assuring expediting legal action concerning family law obligations, the Section has the following comment:
Under proposed Sec. 466(a)(2) general language calls for procedures assuring expedited activity in procedures concerning child support and any "related obligations arising under or in connection with the support orders involved." To implement this the Secretary of H.H.S. is given regulatory power. It is requested this regulatory power be stricken from the statute. If state "procedures" are to be changed, it should be by state or federal law.

4) As to seizure of state tax refunds, it is the Section's position that:
    a) This concept should be extended to all cases of non-payment of support not just welfare cases.
    b) States should be able to set the minimum limit of refund to be seized, below which it is not cost effective to use this process, not the Secretary of H.H.S. as is proposed in HR 4325. If Congress wishes to propose a

limit, it should not exceed $20.00. Data processing systems vary from state to state and thus states are in the best position to decide what amount is to be used for this purpose.

c) In establishing notice and hearing requirements it should be understood that refunds are analogous to a savings plan not earnings. Procedural requirements should not be so burdensome for the injured creditor that the injury already resulting from non-payment of support is compounded.

5) Liens against property.

Because the term "personal property" is too vague and general this should be stricken from this proposed federal law.

6) State Commissions on Support Enforcement:

a) The federal mandate for this excludes a specific requirement that public and private family law practitioners be included. Where such commissions have been organized without this professional group having been included in its make-up, the degree of information and expertise has been limited, to the detriment of the work of the commission. HR 4325 should be amended to include this expertise.

b) Federal funding for such commissions at the 70% rate should be included in HR 4325.

7) The Section approves without comment:

a) State laws permitting a security bond to be required against default in support payments.

b) Raising the statute of limitations in paternity cases to age 18.

C. The Section recommends the following additions to HR 4325:

1) Extend the right to seize federal tax refunds to non-welfare cases:

In so doing also state that if a joint return is filed 100% of the refund be used to meet the support debt. This concept has been upheld in state and federal court. It is based on the practical fact that over withholding is a form of savings and is used to limit the amount of cash flow available for support during the tax year. As between the spouses who filed the return the non-obligated spouse may obtain reimbursement from the obligated spouse for the part of the joint savings contributed.

The above approach with respect to federal tax refunds ought to reduce burdens on the Internal Revenue Service and its personnel, a consequence that should constitute an overall objective of HR 4325. This consequence is consistent with an administrative recommendation adopted by the ABA House of Delegates (100 ABA Report 539) that urges that functions and duties of the Internal Revenue Service be limited to the administration of Internal Revenue laws. In terms of the specific recommendations as to HR 4325, this result should ensue since the set off approach in welfare cases under the Social Security Act places primary responsibility for carrying out most necessary steps on personnel of the Health and Human Services Department and local agencies.

2) Bankruptcy reform:
There is some concern that support debts owed on paternity cases, foster care cases, and situations not classified as arising out of a marital relationship are still dischargeable. All support obligations should be equally exempt from discharge in bankruptcy.

SUMMARY

The Family Law Section of the American Bar Association takes the position that HR 4325 is a dramatic step forward in protecting the rights of families abandoned as a result of divorce and in protecting the rights of out-of-wedlock children. It has been consistently the position of the Section throughout the development of the program under Title IV D that all abandoned families should be treated in a similar manner in terms of enforcement of support obligations owed thereto. The financing scheme in this bill demonstrates Congress' similar commitment.

On behalf of the Section of Family Law, I thank the Chairman and the Committee for permitting me to present these views.

STATEMENT OF TERRANCE R. BROWN, CHIEF, CHILD SUPPORT DIVISION, SAN BERNARDINO COUNTY DISTRICT ATTORNEY'S OFFICE, SAN BERNARDINO, CALIF.

Mr. **Brown**. Thank you, Senator Durenberger.

I would like to preface the brief remarks that I will make with this statement: I represent San Bernardino County, a district attorney's office in southern California. I do not speak for the State of California. I would like that understood.

I would like to pinpoint two areas under the provisions of H.R. 4325 with respect to payment of incentives to states.

On the incentives, there are two categories, as the committee is well aware: One, paying a performance incentive based on a collections-to-cost effective ratio, and that is to be paid on a sliding scale up to 10 percent if the collections-to-cost effectiveness is greater that 2:1.

The other portion of the incentive payment is a guaranteed incentive of 4 percent on all child support collections, welfare and nonwelfare alike, and without regard to the cost effectiveness of the program. That 4 percent of all child support collected, based on this committee's report dated September 1983, represents $85 million in Federal dollars as an incentive with no strings attached. I would suggest to this committee that a modification in the formula on this provision of the incentive, on guaranteed incentives, be made, and I would suggest that this incentive be reduced from 4 percent to 2 percent, and add that 2 percent, which is a $42.5 million savings, to the performance incentive so that that additional money that is saved would be paid to those jurisdictions that are actually doing a good job and are cost effective, and that it not be doled out willy-nilly to all jurisdictions regardless of their cost effectiveness.

My other concern on incentives is the disbursement of those incentives. The authors of this bill have made a point to try to insure that local jurisdictions—county district attorneys' offices—be rewarded for their cost effectiveness. But the present language in this bill does not actually insure that, because even though it does require that the incentives earned by a county be passed on to a county, it makes no provision for the instance where the State fails to qualify because of its average collection-to-cost ratio, and by virtue of the fact that the State doesn't qualify, even if the county is the most cost-effective operation in the United States, it wouldn't get one dime in performance incentives. I would like that addressed by the committee and the language changed in the formula to correct that.

Thank you very much.

Senator **Durenberger**. Thank you, and I thank you very much for those suggestions. I think they will be very helpful.

[Mr. Brown's prepared statement follows:]

STATEMENT BY

TERRANCE R. BROWN

CHIEF ADMINISTRATOR, CHILD SUPPORT DIVISION
SAN BERNARDINO COUNTY DISTRICT ATTORNEY'S OFFICE

BEFORE THE

FINANCE SUBCOMMITTEE ON SOCIAL SECURITY AND INCOME MAINTENANCE
HEARING ON CHILD SUPPORT ENFORCEMENT PROGRAM

ON

H.R. 4325 (HOUSE COMPROMISE BILL)
S.1691 (ADMINISTRATIONS BILL)

THURSDAY, JANUARY 25-26, 1984

Mr. Chairman and members of the Committee:

I am appearing before you today to express to you some of my concerns over the impact of the incentive formula described in Section 458 of H.R. 4325 on State as well as County administered child support programs. As H.R. 4325 states, in Section 458(a), the purpose of the payment of incentives to states is..."to encourage and reward State child support programs which perform in a cost-effective and efficient manner..." It is clear from the language contained in this Bill that the intent of the legislature is to reward programs that have a positive ratio of collections to costs. I wholeheartedly support that concept.

According to the recently published report on Child Support, prepared by the staff of the Committee on Finance, United States Senate, September 1983, the national average of child support collections to administrative cost ratio is $2.99 to $1.00. That is nearly three dollars ($3) collected for every one dollar ($1) spent in costs to administer the child support program. As one can readily surmise, in order to arrive at the national average of a 3:1 collections to cost ratio, there must be many jurisdictions below that level as well as many above that level.

In the application of the current incentive formula, described in this Bill, it would be extremely difficult if not impossible for a jurisdiction's non-welfare collections to exceed combined welfare and non-welfare administrative cost, if non-welfare cases comprised less than ten percent (10%) of the total child support caseload and welfare related cases made up the other ninety percent (90%) of the caseload. Some allowance should be made in the incentive formula that adjusts for the inherent imbalance between the number of welfare cases versus non-welfare in a given child support program.

When the formula described in H.R. 4325 for the payment of incentives is examined, it would appear to foster mediocrity and fails to adequately reward cost-effectiveness and efficiency.

For example, under the first provision of the formula, all states will receive "incentive payments" equal to four percent (4%) of all child support collections (non-welfare and welfare), regardless of how much is spent to collect it. I take strong exception to the suggestion that this kind of formula is an incentive for programs to be more cost-effective when it rewards both good and bad performance equally.

The second provision of this formula is as much a disincentive for cost-effectiveness as is the first. It provides that to the extent that AFDC or non-AFDC child support collections exceed combined administrative costs for both AFDC and Non-AFDC, higher incentives will be paid as follows:

AFDC INCENTIVE		NON-AFDC INCENTIVE	
ratio of AFDC collections to combined AFDC/non-AFDC administrative costs	incentive equal to this percent of AFDC collections	ratio of non-AFDC collections to combined AFDC/non-AFDC administrative costs	incentive equal to this percent of non-AFDC collection
1.0 : 1	5.0 %	1.1 : 1	5.0 %
1.1 : 1	5.5 %	1.1 : 1	5.5 %
1.2 : 1	6.0 %	1.2 : 1	6.0 %
1.3 : 1	6.5 %	1.3 : 1	6.5 %
1.4 : 1	7.0 %	1.4 : 1	7.0 %
1.5 : 1	7.5 %	1.5 : 1	7.5 %
1.6 : 1	8.0 %	1.6 : 1	8.0 %
1.7 : 1	8.5 %	1.7 : 1	8.5 %
1.8 : 1	9.0 %	1.8 : 1	9.0 %
1.9 : 1	9.5 %	1.9 : 1	9.5 %
2.0 : 1	10.0 %	2.0 : 1	10.0 %

Based on the above formula, any child support jurisdiction that exceeds a better than 2:1 collection to cost ratio would receive no additional incentive beyond the ten percent (10%), no matter how much improvement could be demonstrated.

Child support programs such as the one that I administer are already performing at or near a 2:1 collection to cost ratio (both welfare and non-welfare). Although most jurisdictions do not perform that well, there are enough county and state administered programs that do, that some consideration for additional incentive should be given for those that are already exceeding the 2:1 ratio.

In order for the formula to be an incentive that adequately rewards good management I would suggest the following modifications:

A. Reduce the guaranteed incentive on all collections from four percent (4%) to two percent (2%).

B. Through the savings realized by implementing "A" (above, the sliding scale incentive (based on positive collection to cost ratios), could be increased beyond the ten percent (10%) maximum to twelve percent (12%) for jurisdictions that are achieving or exceeding a 2:1 collection to cost ratio.

By incorporating my proposed formula changes into this legislation, a fair incentive would be paid to states; an incentive that serves not only to encourage poorly performing child support operations to improve but would also serve as a reward for those jurisdictions that are performing at a superior level.

Another concern I have with H.R. 4325 deals with Section 458(e). Section(e) attempts to ensure that in States where child suport programs are county administered, that all "incentives" earned by local jurisdiction be passed down from the State to the County child support agency that actually made the collections.

I would suggest to this Committee that Section 458(e) does not in fact adequately guarantee any payment of incentives to local jursdictions. My reason for making this statement is, that all of the language contained in Section 458 deals with payment of incentives to "STATES" whose programs meet the necessary collection to cost criteria. Nowhere in this Bill does it address the issue of a "State" (as a whole) not meeting the necessary criteria; while at the same time one or more of the county administered programs within that State is meeting or even exceeding the required performance criteria. In such a case, the cost-effective County would be deprived of any incentive payments by virtue of the fact that the overall State average was not high enough to qualify the State for the incentives.

Since, according to this Committee's staff report on Child Support, sixty-two (62%) of all child support collected in the United States is collected by County administered programs, I strongly urge this Committee to make whatever language changes are necessary in Section 458(e) of this Bill to adequately guarantee an equitable distribution of incentive payments to cost-effective, County administered programs, regardless of the overall State performance. Such safeguards are currently in effect for the distribution of incentive payments now being paid to Counties and States. Similar language could easily be incorporated into this Bill. Thank you for your consideration of the issues I have discussed.

Senator **Durenberger**. Is there any question in your minds that the 70-percent Federal match ought not be changed?

Mr. **Barber**. There is absolutely no question on the part of the D.A.'s Association, and I am sure San Bernardino shares that position with us——

Mr. **Brown**. Wholeheartedly.

Mr. **Barber** [continuing].That, at a minimum, that should be protected. It was not just shaving a few points, it was a very dramatic slice in our budget last year. Shaving it any further, even the implication of it, will erode the confidence of county administrators in terms of making future appropriations.

It is not just that the county administrator does not want to go ahead and create jobs for next year, but creating positions in civil service is a long-term commitment, and unless the long-term funding is there the county administrator is always going to hold back. Your program is always going to be short if there is this implication continuing to come out from Washington that this year it is 70, next year it is going to be 69, 68, 67. They are simply not going to create the positions necessary to do the job.

Senator **Durenberger**. Mr. Schoonmaker, does the bar association have some position on paternity or some of the paternity-determination requirements that are in some of this legislation and some of the testimony we had earlier?

Mr. **Schoonmaker**. The only thing I could say on that is that the family law section did endorse all of the paternity aspects that are in the House bill. That was our position. More than that, I really cannot say.

Mr. Barber is also a member of the family law section of the American Bar Association. He is our resident expert on that, and I would defer to him.

Senator **Durenberger**. All right. I will turn to Mr. Barber.

Mr. **Barber**. The committee that helped put this testimony together did take a good look at what was happening on paternity testing and did support the position that paternity testing costs ought to be factored out of this cost/collection ratio—the way it was in the original House bill, as Mr. Schoonmaker stated.

Unfortunately, the way the bill came out of the House, as we have all heard, cut that back to strictly blood-testing costs.

Let me address a couple of other points that you raised in that regard. The HHS, back in 1973-75 commissioned Arthur Young to run a study on the cost-effectiveness of the program including paternity costs. We were one of the five counties studied. That study found—and I can recall only our statistics—that at that time it cost about $90 a year to run a child support case; it cost about $180 to get an attorney judgment. That is not exactly an exhorbitant sum and far at variance with figures that I believe have been quoted to this committee by public officials from other states.

Second, Arthur Young was able to segregate out those costs and identify them, contrary to representations that have otherwise been made.

I think Terry will back me up—we have no problem in figuring out pretty closely what it costs to run our paternity subunits within our office.

Do you have any problem?

Mr. **Brown**. No problem at all.

Mr. **Barber**. I don't really understand why there is any problem anywhere in the Nation. If you define a paternity case as involving one where there is either an out-of-wedlock birth, or at least conception before marriage, and a denial of parentage by the father, or simply an out-of-wedlock birth, you have your definition pretty well set. The primary cost is investigative and contact, litigation is secondary, and blood tests, though, are a significant part of the investigative costs. The investigative costs, the litigation and clerical costs are also significant, and to factor those out is to impair your work.

Your long-term payoff? As Sam Ashdown said: If you don't have a father, you have 18 years of child support staring at you coming out of the public purse.

Mr. **Brown**. I have one more comment with regard to this paternity issue. In San Bernardino County we are establishing on the average an excess of 2,000 paternity cases per year. Admittedly, it is one of the higher cost programs in our child support operation. However, in H.R. 4325 there is a provision with regard to payment of incentives that the jurisdiction could back out the cost of paternity blood testing. I submit to you that that cost is probably less than 10 percent of what it costs to establish paternity, and it is almost a ludicrous suggestion to back out that small amount of cost when the actual overall cost is far greater than that to establish paternity. So I think that ought to be considered by the committee also.

Senator **Durenberger**. If we move to the Federal income tax intercept program for non-AFDC parents, should we have a concern for the second spouse? If so, is there a way to express it?

Mr. **Barber**. Well, the *Keeny* case has, based on California community-property law, addressed that. The confusion that often ensues in these cases is that they look at the sums withheld as an extension of the earnings of the second spouse. In fact, as the courts have discovered in looking at how withholding is established and how it may be juggled and how it may be altered, and the like, it in fact becomes a savings plan on behalf of both spouses if a point return is filed.

Viewed as a savings plan, then marital property law of the States, and the way in which the marital property is made available to otherwise meet support obligations, was upheld in the *Kenny* case as the basis for seizing that refund. Under California law, marital property may be seized for that purpose, and subsequent reimbursement between the two spouses may occur if in fact there is ever a separation between them.

Consider the larger issues in terms of benefits running between the two spouses, how the second spouse has in fact benefited by the nonpayment of support, in terms of those funds coming into the family during the full year in which the support is not forthcoming. Consider the fact that, by having a joint filing, a joint return, these individuals are in fact using the government as a savings vehicle to thwart the payment of child support.

The only other concern I have heard expressed is, if this goes forward, overwithholding will cease in these cases. If that in fact is the case, then for our purposes that means that much more cash-flow which we can seize for child support and possibly to a much greater degree protect the family.

Senator **Durenberger**. All right.

I thank you all very much for your testimony and for the distances that you traveled to be helpful to the rest of the country. Thank you very much.

Mr. **Schoonmaker**. Thank you, Senator.

Senator **Durenberger**. The hearing is adjourned.

[Whereupon, at 4:14 p.m., the hearing was concluded.]

[By direction of the chairman the following communications were made a part of the hearing record:]

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814
916/323-8994

January 20, 1984

Roderick A. De Arment
Chief Counsel
Committee on Finance, Room 5D
219 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. De Arment:

RE: TESTIMONY ON HR 4325

As requested in Press Release No. 83-205, dated December 12, 1983, I am submitting California's written comments on HR 4325. Please accept the attached for submission and inclusion in the printed record of the hearing which is being held on January 24, 1984.

Sincerely,

Original signed by:
Linda S. McMahon

LINDA S. McMAHON
Director

Attachment

cc: Senator Robert Dole
Senator Alan Cranston
Senator Pete Wilson

Date: January 20, 1984

WRITTEN TESTIMONY ON HR 4325

The Child Support Amendments of 1983

I. Incentive Payments to States

The concept of paying an incentive on non-welfare collections and the formula applied to both welfare and non-welfare has a great deal of merit and should result in a more equal enforcement of the law within the IV-D Program. In the original bill, as introduced, the total costs for establishing paternity were excluded from administrative costs when determining the cost-to-collection ratios. Under that method states would continue to focus a reasonable level of effort on the important work of establishing paternity and California supported the concept. However, the bill as amended allows only the deduction of laboratory costs, thereby significantly reducing the funds available and rendering the formula ineffective and unacceptable in California. Paternity establishment is a separate program mandate in and of itself and costs involved should not be related to the cost effectiveness of enforcement and collection activities. It is obvious that if the high administrative costs attached to proving parentage are included in a cost-to-collection funding scheme, paternity litigation will become a low priority in all states. Since paternity costs are easily time studied out and these functions are typically performed by specialized staff, cost identification would not raise a significant problem.

II. Income Withholding

California currently has an effective income withholding provision which allows the court to implement a wage assignment for current support at the time an order for support is established. The provision also mandates the court to implement a wage assignment when requested to do so by the district attorney when the absent parent is in arrears one month in twenty-four.

Notice is given to the absent parent at two levels. He is entitled to notice of the possibility of a "wage assignment" any time after the order for support has been entered, but not less than 15 days prior to petitioning the court for such an order. When the order has been served on the employer, the employer is required to forward to the employee a copy of the papers served on the employer plus a statement of the employee's rights. The employee has approximately 15 days to get to court after service by the employer, however, support continues even though the matter is before the court.

California's statute is consistent with established case law on due process, is more effective, less time consuming, and less expensive than the prior notice provisions required in HR 4325. Passage of the current provision would severely weaken the current statutes in California and would prevent other states from implementing tighter provisions.

Another area of concern relating to the income withholding provisions is the lack of clarity regarding the requirement for collection responsibility. If the intent is to mandate that all wage assignments obtained by private individuals outside of the IV-D Program be processed through the IV-D collection agency, California would object strenuously because of the enormous increase in caseload and administrative costs. It is recommended that, at the option of the states, wage assignments obtained by private attorneys or individuals may be forwarded by the employer directly to the custodial parent.

III. Fees for Enforcement of Child Support Orders

HR 4325 requires that when an individual requests the IV-D agency to process child support payments, a $25.00 annual fee is to be charged. However, there is no fee for welfare cases. California has historically rejected the imposition of any type of fee for IV-D services. The administrative cost of accounting for the $25.00 fee would outweigh any financial benefit of the charge and would never cover the actual cost of handling and processing the case. The equal protection problems involved in imposing the fee or not imposing it on individuals with similar resources creates a situation which California strongly opposes.

IV. IRS Intercept for Non-Welfare Cases

California strongly supports the implementation of the IRS Intercept Program for non-welfare cases and recommends that provisions for the intercept must be included in HR 4325. The continued distribution of federal tax refunds to defaulting parents in non-welfare cases appears to be in conflict with the federal intent regarding the state's implementation of non-welfare state tax refund intercepts.

CHILD WELFARE LEAGUE OF AMERICA, INC.

STATEMENT OF THE CHILD WELFARE LEAGUE OF AMERICA, INC.

COMMITTEE ON FINANCE

U.S. SENATE

CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1984

January 24, 26, 1984

The Child Welfare League of America is a federation of child and family serving agencies in the United States and Canada. Along with its divisions, the North American Center on Adoption, the Hecht Institute on State Child Welfare Planning, the Florence Crittenton Division, and the Office of Regional, Provincial and State Child Care Associations, the Child Welfare League represents over 1,600 public and private agencies which are responsible for the delivery of services to children and their families. The League is directed by a voluntary Board of Directors composed of lay and professional leaders, and is supported by dues and fees as well as foundation grants, government project grants and charitable contributions.

Responding both to the League's central mission, Guarding Children's Rights, Serving Children's Needs, and to reports of our member agencies throughout the United States, the Child Welfare League Board of Directors voted, on November 18, 1983, to support the provisions now before your Committee as S. 2207, the Child Support Enforcement Amendments of 1984.

The Bureau of the Census estimates that 20 percent of the nation's children will, at some time during their childhood, be living with one parent and entitled to support from a living noncustodial parent (Bureau of the

Census, U.S. Department of Commerce, Marital Status and Living Arrangements: March 1981, Series P-20, No. 372 at 1,5, 1982). As the abundance of data assembled by your Committee so clearly demonstrates, far, far too many children are not receiving the support to which they are entitled.

We wish to express our appreciation for the Senate Finance Committee's originating and continuing interest in assuring that these children are supported. It is very reassuring to know that the Committee is monitoring enforcement. Above all, we are grateful for your decision to make child support enforcement improvement legislation a priority agenda item.

A continuing concern of the League has been that CSE services be available on behalf of all children in need of enforcement services. Therefore, we are glad to see the proposals to strengthen incentives to States to pursue support on behalf of non-AFDC children, and we urge the Committee to adopt the S. 2207 provisions which would move the program in this direction. We believe that securing adequate maintenance and care for children is the purpose of the enforcement program. On a secondary level of concern, it appears to us that providing child support enforcement services to non-welfare families is already proving cost effective in terms of collections and as a means of promoting family self-sufficiency.

We are hopeful that the new wage withholding mandate will yield substantial support money for children as well as a persuasive incentive to those States which have yet to implement effective enforcement programs. In the latter respect, we hope the Committee will do its utmost to strengthen interstate enforcement procedures and will reject the notion of lowering the Federal administrative match as all incentives are needed to make CSE an effective, universal program.

CHILD WELFARE LEAGUE OF AMERICA, INC.

A number of our member agencies serve children in foster care and have been inquiring about the restoration of support enforcement for foster care children. They will welcome this provision as a much needed resource in the struggle to fund care for children who cannot remain in their own homes.

The Child Welfare League thanks the Committee for this opportunity to provide a statement.

JANUARY 24, 1984 - CHILD SUPPORT ENFORCEMENT PROGRAM REFORM PROPOSALS

COLORADO RESPONSE TO H.R. 4325
"CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1983"

1. Section 3: Section 466 of the Social Security Act:

We generally support the provisions mandated by Section 466 and concur that such provisions will substantially assist states in improving child support enforcement (CSE) services and collections. The following are constructive comments regarding such provisions.

a. Section 466 (a)(2); Page 4, Line 4:

Page thirty-six (36) of Report 98-527 indicates the legislative intent of this provision is that states enact administrative process or quasi-judicial process to expedite case processing and reduce the adversarial nature of court proceedings to establish child support. However, the actual legislative language of this section is diluted and vague. This section also delegates to the Secretary the duty to define the procedures in regulations. If the legislative intent is the enactment of quasi-judicial or administrative process by states, then such intent should be indicated in law to provide a basis for the regulations.

Recommendation - Indicate legislative intent in the legislation by requiring states to establish either administrative process or quasi-judicial process for the establishment and enforcement of support. Also provide that the Secretary may waive this requirement upon proof by the state that compliance with this requirement would not improve the child support enforcement program in such state.

b. Section 466 (b)(9); Page 12, Line 19:

This subsection requires states to enter into agreements to impose income withholding procedures based upon orders of another state. We strongly support this provision, but are concerned about jurisdictional requirements. Specifically, for a state to enforce an order, such state must have an order for support executed in the state. This provision appears to avoid such requirement.

Recommendation - Require that states enact laws that assure interstate reciprocity of orders for support without further involvement by the court in the initiating or responding jurisdiction. Assure that such laws comply with regulations of the Secretary. We envision this provision saving substantial amounts of time and reducing duplication of effort in the enforcement of out-of-state orders.

2. Section 5: Section 457(c) of the Social Security Act; Page 15, Line 20

a. The intent of this section is to allow states a period of five (5) months, after closure of the AFDC case, in which to continue to collect support and arrange for payments to be redirected to the obligee instead of through the CSE unit. We recognize the CSE unit needs time to extricate itself from the case. However, in Colorado, the courts have created a problem for our program. The judiciary will pay the full amount of the collection to only one obligee. Therefore, if the CSE unit is receiving both the monthly support collection and arrearage collection pursuant to a wage assignment and the AFDC case closes, payments must continue to be processed through the unit or assigned arrearages will be sent by the court to the former recipient, thus losing the AFDC collection. Also, the former recipient is often unwilling to authorize the CSE unit to continue processing the payments because such processing causes a delay in the receipt of same by the former recipient.

Recommendation - Change 457(c)(1) as follows:

"457(c)(1) continue to collect support for so long as support arrearages pursuant to 402(a)(26) are owed, and pay the amount applied to the monthly (or periodic) support obligation to the family. After such arrearages are satisfied, the state may continue to collect support for a period not to exceed three months from the date of payment in full of such assigned arrearages unless the state has implemented the provisions of subsection (c)(2) of this section"

b. Although Section 457 (a) and (b) are not impacted by the provisions of H.R. 4325, we strongly feel that such provisions should be rewritten and should be included in any federal legislation that affects the CSE program. The rationale for our concern and recommendations follow:

1). Section 457 (a) is no longer effective because the first fifteen (15) months beginning July 1, 1975, have expired.

Recommendation: Eliminate Section 457 (a).

2). Regulations prescribed by 45 CFR 302.51(a) allegedly have their genesis in section 457. However, the Department of Health & Human Services has indicated that only the legislative intent of Section 457 supports the regulation in question. Such regulation is very restrictive as to the classification of support received. For example, often in Colorado, CSE units obtain judgment for child support arrearages and execute by a writ of garnishment. Obviously, any amount collected is arrearage, yet 45 CFR 302.51(a) requires the collection to be allocated to the monthly support obligation. Therefore a satisfaction of judgement is provided to the absent parent for the full amount of the collection when only a portion of such collection was applied to the judgment. When the full amount of the judgment is finally collected, the judgment is not fully satisfied, although the absent parent is no longer obligated for the difference. We feel that a new subsection should replace section 457(a) to clarify the rules for allocation of a collection. Any collection is a receivable and must be allocated to receivable accounts such as: the monthly support obligation, arrearages, costs, overcollection or payments for future months.

Recommendation - Replace subsection 457(a) as follows:

"457(a) Of any amount collected pursuant to a plan approved under this part, if the characteristic of the collection is known, such collection shall be applied to the appropriate accounts for the case. In the event the characteristic of the collection is unknown, then such collection first shall be applied to the monthly (or periodic) support obligation account, then to the support arrearages account, then to the cost reimbursement account, then to an account for future months or to an overcollection account."

3). Once a collection has been allocated to satisfy a specific receivable account, then it must be distributed much like an account payable. The collection may be disbursed to reimburse a specific AFDC grant, or to reimburse accumulated prior months AFDC grants, or disbursed to the family, or paid to the absent parent if an overcollection occurred, or disbursed to reimburse costs expended. The manner in which the collection is paid out depends upon how it was allocated. For instance, if only the cost of service of process was paid by the absent parent, such amount should be allocated to the cost reimbursement account. The current 457(b) does not recognize this situation and disburses such collection to reimburse the AFDC grant. This is in conflict with the intent of the absent parent.

Additionally, the language in section 457(b) is difficult to understand and should be rewritten with clarity.

Recommendation - Replace 457(b) with the following language:

"457(b) Amounts collected pursuant to subsection (a) of this section shall be distributed as follows:

1) Amounts collected by a State pursuant to a plan approved under this part as support for one or more members of a family receiving public assistance pursuant to a plan approved under part A shall be distributed as follows:

(A) Amounts applied to the monthly (or periodic) support obligation shall reimburse the aid paid to the family in the month in which the collection was received, and any amount in excess of such aid shall be paid to the family.

(B) Amounts applied to support arrearages shall reimburse the total amount of unreimbursed aid paid to the family in months preceding the month in which the collection was made, and any support arrearage in excess of such past unreimbursed aid shall be paid to the family.

2) Amounts collected by a State on behalf of applicants pursuant to Section 454(6) shall be distributed as follows:

(A) Amounts that have been applied to the monthly (or periodic) support obligation shall be paid to the person legally entitled to receive such amount.

(B) Amounts that have been applied to support arrearages shall first be subject to the provisions of Section 457(b)(1)(B); thereafter such amounts shall be paid to the person legally entitled to receive such amount.

3) Amounts applied to the cost reimbursement account shall be retained by the IV-D agency to decrease total program costs.

4) Amounts applied to the overcollection account shall be returned to the payor.

3. Section 6(a): Section 458 of the Social Security Act; Page 16, Line 11:

Generally, we support the concept of incentive payments based upon cost effectiveness with the following reservations:

a. As proposed, this section classifies interstate collections in either the AFDC or non-AFDC category, as indicated by the initiating jurisdiction. A regulation exists that requires initiating states to inform responding states of changes in the classification of the case (45 CFR 303.7(a)(5)). However, most state CSE agencies fail to promptly notify the responding state of such changes because it requires one more time consuming step in the process. Therefore, interstate collections may be easily manipulated by states into the caseload that would be to the maximum benefit of the state. To our knowledge, the audit staff of OCSE have never audited specific cases between states because such activity requires close coordination of several different regions and is extremely time consuming. As a result, Federal audits of a state's manipulation of interstate cases is highly unlikely.

Recommendation - Establish a third incentive structure that corresponds to proposed subsection (a)(1) and (a)(2) of Section 458 except that the interstate cases would be divided by the total caseload and the product multiplied by the total program expenditures. The product of the foregoing is then divided into total interstate collections to determine the cost effectiveness ratio and the incentive payment due. Four (4) percent of collections would be paid as incentive in any event, regardless of the classification of the case, so the establishment of a third classification will not affect the base payment. However, the incentives that are based upon the collection to expenditure ratio will encourage states to devote more attention to the interstate caseload since the incentive would be based upon pro-rated expenditures to total interstate collections.

This recommendation will result in encouraging state CSE programs to emphasize the importance of interstate collections instead of the current trend of subordinating such case activity to local case activity.

b. Section 458(c) requires states to pass through to its political subdivisions an appropriate share of any incentive awarded to the state if such political subdivisions participated in the cost of enforcement. We disagree with this requirement because states should retain the right to decide how and to whom incentive payments are to be made. The CSE program in Colorado is county administered and by statute the state must pay an incentive of 15% of AFDC collections to counties. By requiring the Federal incentive to be passed through to counties, the desired effect of the incentive for performance will be diluted.

We would like to have the discretion to work with our counties to determine an equitable incentive structure without being restricted by a federal requirement that limits such incentive structure.

Recommendation - Strike the provisions contained in 458(e)

4. Section 8: Section 403(h) of the Social Security Act; Page 23, Line 9:

This provision imposes a graduated penalty of 2% to 5% against the AFDC program for failure to have an effective program under part D of Title IV.

This provision, since 1975, has been unfair and it is questionable that the AFDC program may be sanctioned for the failure to the CSE program to comply with its requirements. Since the IV-D program need not be situated within the same state agency as the IV-A agency, sanctioning the IV-A agency does not appear to be appropriate. The alternative is to dissallow federal financial participation or incentive payments due to the CSE program.

Although we concur with the graduated penalty, we think that the imposition of such penalty should be against the IV-D program unless the cause of the non-compliance resulted from the failure of the IV-A or IV-E Program to comply. In that event penalties should be imposed against such program(s).

Recommendation - Require graduated penalties against Titles IV-A, IV-D, and IV-E, as appropriate, for failure to substantially comply. The effective date must provide states time to effect the changes necessary to state laws and regulations. We recommend the effective date be changed to October 1, 1985.

5. Section 10: Section 457(d) of the Social Security Act; Page 25, Line 11:

We recognize the importance and desirability of recovering the cost of foster care (Title IV-E) placements. However, pursuant to section 458, such collections will be classified as non-AFDC. We strongly disagree with such classification.

The collection made pursuant to Section 471(a)(17) of the Act are treated similarly to those made pursuant to 402(a)(26) of the Act in that both are retained by the state to reimburse the governmental entities that participated in the cost of the programs. Additionally, collections made pursuant to 471(a)(17) of the Act are prevented from being used to reimburse the AFDC program when competing assignments exist, thus denying states potential AFDC collections.

Section 458 of the Act encourages states to attain a favorable collection to cost ratio by rewarding states with graduated incentives based upon such performance. However, the non-AFDC incentives are limited by 125% of the AFDC incentives. Therefore, by classifying foster care collections as non-AFDC, states' incentives may be limited, which is unfair to states, and may result in less emphasis upon foster care collections.

Recommendation - Classify Title IV-E collections in the same category as AFDC collections by changing proposed 458(1) as follows:

Page 17, line 7: insert after "402(a)(26)" the words "or section 471(a)(17)."

6. Section 12: Section 452(f)(1) and (2) of the Social Security Act; Page 28, Line 17:

These new subsections impose upon states the additional duty to collect and report certain cumbersome statistical data for the annual report to Congress. The collection of these data will impose substantially increased costs upon state Child Support Enforcement Programs, since a significant increase in personnel will be required. The reason for such additional personnel is that annually each IV-D case must be analyzed to obtain the required data. In Colorado, we estimate the collection of such data will impose the additional annual cost of $339,120, as fully described in Attachment A. Obviously, this requirement subverts the intent of incentive based upon performance contained in section 458 of the Act.

We are receiving mixed messages from Congress. On one hand we are encouraged to assure that our CSE program is cost effective and on the other we are prevented from achieving the goal.

Recommendation - Eliminate section 452(f)(1) and (2).

7. Section 14: State Commission on Child Support; Page 34, Line 22:

We question the requirement that states must establish a commission and the requirement that the CSE program absorb the cost of such commission. Although the intent of establishing such a commission is admirable, we feel that such a mandate is inappropriate. Moreover, by requiring the CSE program to absorb the cost of the commission, the state's incentive payments will be adversely affected.

Recommendation - Either strike section 14 of the bill or exempt the cost of such commission from total state expenditures prior to applying the incentive criteria.

ATTACHMENT A

1.	Current caseload		111,000
2.	Cases analyzed per hour		÷ 5
3.	Total hours required		22,200
4.	Daily hours/person	7.5	
5.	Working days/month	x 22	
6.	Total hours available per person		÷ 165
7.	Total additional people required to collect data		135
8.	One month salary + indirect		x 2,512
9.	Additional cost		$339,120

WILLIAM A. O'NEILL
GOVERNOR

STATE OF CONNECTICUT
EXECUTIVE CHAMBERS
HARTFORD

January 24, 1984

Mr. Roderick A. DeArment
Chief Counsel
Committee on Finance
Room SD-219
Dirksen Senate Office Building
Washington, D.C. 20510

Re: Child Support Enforcement Program Reform Proposals Before the Senate Finance Committee Tuesday, January 24, 1984.

Dear Mr. DeArment:

I am grateful for the opportunity to express the views of the State of Connecticut in regards to the child support enforcement program reform proposals.

We in Connecticut share your concerns and your enthusiasm for an effective child support enforcement program and we want to express our overwhelming support for the Child Support Enforcement Amendments of 1983 recently passed by the House.

We believe that such legislation clearly reaffirms the congressional intent that child support enforcement services must be made available to all children who are in need of assistance in securing financial support from their parents.

We believe that H.R. 4325 will not only significantly improve the Child Support Enforcement Program of many states, it will also provide the necessary incentive for more effective cooperation among states in interstate cases.

Regarding certain specific provisions of H.R. 4325, we wish to note the following:

1. Income Withholding

    a. The states should be given an option not only to establish the amount of the fee to be paid to employers by employees whose wages are under garnishment, but also whether or not such fees should be imposed. We believe that, where possible, maximum flexibility should be afforded to states to implement the income withholding provisions, provided the intent of the federal law is preserved.

b. H.R. 4325 requires that a final decision as to whether or not a withholding will occur must be made within 30 days of the notice to the absent parent of the proposed withholding action. We believe that most courts in most states will not be able to comply with this time limit. For example, in Connecticut, after the obligor becomes delinquent, he receives notice that he has 20 days to request a hearing before the income withholding order goes into effect. If such obligor were to request a hearing on the 20th day or even earlier, the courts would have almost an impossible task to schedule and hear the case within 30 days from the date the obligor was notified. We recommend that the states be given more flexibility in establishing time limits for such actions. Perhaps states should only be required to insure that the final decision as to whether or not withholding will occur must be made within a reasonable time (rather than 30 days) after the date the obligor is notified of the proposed withholding action.

c. In Connecticut and in most other states the non-AFDC obligee is not required to assign his/her support rights to the state. Therefore, the amounts withheld by employers, pursuant to income withholding procedures for child support cases, do not become an obligation owed to the state, rather they are paid through the state directly to the obligee. Under such circumstances we believe the employers could not be held liable to the state for any amount they fail to withhold for non-AFDC families.

   We recommend, therefore, that an employer who fails to make payments pursuant to an income withholding order, be held liable to the obligee in an action therefor, and the amount secured in the action be applied by the obligee toward the arrearage owed by the obligor.

d. We believe it is appropriate for withholding procedures to apply automatically to AFDC cases and to those non-AFDC cases where the support payments are monitored by the IV-D Agency. We do not believe it is necessary that all child support orders must include provision for withholding of wages whenever arrearages occur. The courts should be given discretion as to whether or not an order of withholding should be entered in non-IV-D cases. Also, to require provision for withholding of wages in all support cases could be an unnecessary infringement on the freedom of those parties who wish to stipulate otherwise.

2. Tracking and Monitoring of Support Payments by Public Agency

   Tracking and monitoring of support payments for non-AFDC cases will certainly cost much more than the maximum yearly fee chargeable under the proposed legislation to non-AFDC family ($25.00). Also, non-AFDC cases currently in the IV-D system should be exempt from such fees if a state has been providing free support enforcement services for those cases.

3. Ninety Percent Matching for Automated Systems

   We strongly support this provision of the law. Automated systems are critical for an effective Child Support Enforcement Program. Most states, including Connecticut, will have to make a substantial investment of financial and personnel resources to automated systems if we are to comply with the various provisions of H.R. 4325. It is imperative that the Federal Government support such an effort by providing 90% federal matching not only for the development and implementation of automated systems but also for the acquisition of computer hardware.

4. Continuation of Services for Families that lose AFDC Eligibility

   We support the automatic transfer to non-AFDC status of families that lose their AFDC eligibility.

   However, we believe that even former AFDC families should be given an option to withdraw from the Child Support Enforcement program if they so choose. The law should provide for such an option.

5. Federal Incentive Payments

   P.L. 93-647 requires states to pursue the establishment of paternity for children born-out-of-wedlock regardless of putative fathers' ability to pay. H.R. 4325, on the other hand, provides for payments of incentives to a state on the basis of its collections for AFDC and non-AFDC cases and the cost effectiveness of its program. To remedy this inconsistency, the proposed legislation further provides that a state be given an option to deduct from the administrative costs of its IV-D program laboratory costs incurred in paternity action before computing the cost effectiveness. We believe that the proposed legislation does not go far enough.

It seems appropriate to us that for the purpose of a state's eligibility for incentive payments, in addition to the laboratory costs, legal costs that are clearly identifiable as costs incurred in the determination of paternity should also be deducted from the total administrative costs before determining a state's cost effectiveness in the IV-D program. Connecticut is one of the leading states in the determination of paternities (over 4,000 cases in 1983) and whereas the lab costs for such paternity actions in 1983 were less than $30 thousand, the legal costs exceeded $350 thousand.

6. Modification in Content of Secretary Annual Report

The information which will be required from the states for the Secretary's Annual Report is yet another reason for a strong commitment to automated systems.

In Conclusion, we strongly support the strengthening of state child support enforcement procedures. However, we urge a little more caution with the time frames for implementation and a little more awareness of the additional financial burden imposed on the states as a result of some of the proposals in H.R. 4325 particularly those that will require states to expand their non-AFDC services.

Sincerely,

WILLIAM A. O'NEILL
Governor

THE GEORGE F. DOPPLER EFFORT
Broomall, PA 19008-0060

215-353-3462

Several bills have been introduced into the U.S. Senate and House concerning enforcement of child support and alimony. In order to achieve maximum results a program should consider every *possible aspect and facet before it is instituted. Following* are some view points concerning these bills which might be different and even unpopular.

The first thing that needs to be done in every child support progam is separate those from a legal marriage from those of cases not married to each other. Present practice to lump all fathers into one group is highly unfair and not smart. The nature of the two groups are totally different. For one, the legally married father in not with his family because of a bad marriage situtation, or marital cause. While they both may be fruit, would you use apples in a recipe that called for oranges? In sports, would you play baseball by the rules of football? So it should be with child support. There should be two types of administeration to administer the two types.

Our society is hung up on emotional arousing terms like "runaway fathers", "absent parent" which is only a father. What we really need to do is get down to the facts. There never has been any factual information ever compiled concerning who "runs away", it is just labled on fathers. When a marriage breaks up the couple split, this is a physical fact. A father in our sex prejudice society could move into a house in the same block and he would still be considered "a runaway father." A correction to this condition would be a hort law requiring the documentation of the orginal county of marital domicle at the time of separation.

Many people are upset by the number of female single headed families. Let's take a look at the reasons for the female single headed home. First there is the unwed, never married single mother. Second, the legally married mother with sole custody and the widowed mother. Most of the single female headed family has been incited by legislation. When a society, a govenment institutes a program providing income to women that have babies, there are going to be babies. The welfare program, the ADFC program is a program constructed to reward single women for having children out of wed lock, especially those of low economic groups. The United States now has a"welfare culture" that starts off another generation every 14 years. The female in the welfare culture starts off another generation at age 14, have three children by the time she is 20, and many have one child a year. The way the AFDC program is constructed what else do you think it is going to produce? And who do you think is going to be the villian? The father of course. A corrective adjustment to this pro-

A Justice and Equality Advocacy in Family Law

gram would be to entitle AFDC to legally married mothers only!

The way the AFDC program has been designed it has been a great factor in degarding legal marriage down to the lowest depths in the history of our nation. The AFDC program has encouraged sexual immorality and has resulted in a society of libertine sexual behavior. This is what our Congress has done to our nation.

Congress, our society is now complaining about the large and growing welfare roll. Is this the fethers of our nation fault? Congress made the welfare program not the fathers. Congress should change the welfare program. What we need is welfare reform not the enslavement of the American father. If immoral women did not give out sexual favors we would not have such a great welfare problem. If sex were required by the state to take place only within a legal marriage we would not have so many single female headed families with low incomes. Women in legal marriages control 65% of the household finances, and the 43 million women in the labor force earn almost $369 billion a year. This is a far cry from the reports being put out by federal agencies which I personally feel are rigged to say what the women want to be heard. States have abolished or abandomed their fornication laws or its enforcement and now we have a gigantic problem which the fathers is suppose to solve. We need to get back to strong anti fornication laws. This is the message the Congress should send back to the states.

What is the economic catagory of women on AFDC? The largest percentage come from low and the lowest economic backgrounds. The fathers invovled in these cases are also from these same low economic groups. Now just now is a father from a low economic group going to come up with high amounts of child support? Also, many of the fathers from low economic groups are in jail, how are they going to earn income? The U.S. Department of Labor has just released income figures covering a five year period, following.

AK	$27,904	DE	$17,553	MN	$16,377	NM	$15,388	ND	$14,626
DC	22,537	TX	17,409	MA	16,333	HI	15,361	NH	14,516
MI	18,809	CO	17,392	MD	16,246	KS	15,277	RI	14,533
NY	18,530	OH	17,155	OR	16,180	GA	15,147	NB	14,057
WY	17,990	LA	17,063	AZ	16,012	AL	14,790	NC	13,831
CA	17,979	OK	16,766	MO	15,970	FL	14,787	VT	13,802
IL	17,903	WV	16,698	UT	15,904	IA	14,766	SC	13,789
NJ	17,868	NV	16,473	WI	15,674	TN	14,763	AK	13,636
WA	17,752	PA	16,448	VA	15,611	MT	14,702	ME	13,466
CT	17,646	IN	16,392	KY	15,486	ID	14,660	MS	13,429
								SD	12,702

These figures are an average of wages earned in 1982 for each state. With an national average of $16,732. These reflect a national average gain of 46% over a five year period.

These are gross income figures. Take away all the taxes, go to work expenses and what does the average American income earner have left? Now tell us how an American father is going to pay a fixed amount for child support, wife support, alimony, medical bills, and he is never, never expected to have a financial setback, plus there are additional expenses in a broken home to maintain a relationship with ones children, plus there are now two living places that must be provided. How do you divide up a net take home pay of $280.? And this is a national average. Many bring home less. Fathers are expected to do the impossible. Women think a man has some kind of magic chute and all he has to do is pull the cord and more money falls from the sky.

For years I have worked with young married women who give birth to children, who work until the last days of their pregnancy, and then shortly after they are right back to work again. Why is it some women, those who are legally married, can have children, raise children and work while many of the unmarried women will not work, but demand AFDC? Congress has created the welfare mess and Congress needs to change it.

To give a little attention to the unwed father. Do you realize the unwed father has virtually no rights? An unwed mother has full, total and complete legal rights to determine what is going to happen with this new life. She can choose abortion if she would like, and since 1973 16 milliom women have choosen abortion, this just proves what many women think about children. A 14 year old unwed female has full say over the child, if she will keep it for herself thus becomming another single female headed family on AFDC with a low income, or she can have it adopted out. We don't have a child support problem, a low female income single family problem, what we have is a problem with sex. Are you aware that most unwed fathers cannot even get custody of his own child even when the mother does not want it. You would be surprised, shocked at knowing how many unwed fathers want their child, but our sex prejudice society, the state will not grant it to them just because they are male, or how many want to marry the mother, but the mother refuses because they know they can have the child all to themselves and AFDC to back them up.

We are in an age of unrestrained sexual conduct. Adultery is running high. Are you aware of the number of legally married women that become pregnate as the result of her adultery and bring another man's child into a legal marriage? This legal concept that all children born to a married woman are her husband's might seem like a nice legal exercise, but when it comes to maintaining and continuing a marriage relationship its for the pits, few adulterous wives are fooling their husbands, and these marriages shortly break up. In my seventeen years of work with separated and divorced men I can confirm that the number of adulterous women is high. American fathers should be given the legal right to challenge every child born to his wife. We now have such excellent testings to prove paternity in unwed cases, the same means should also be available to legally married husbands to prove or disprove the child is theirs.

The number one reason why some child support is not being paid in legal marriages is the father is not getting to see his child or children, his parenting role has been destroyed by the court, and the mother. There is a certain group of mothers who feel when the marriage breaks up the father is never to have anything to do with his children except pay high amounts of child support. Many of these mothers take off at least far enought where the father cannot reasonably associated with them or see them. Another group of mothers take off with the children right at the onset of a break up. It is not runaway fathers that cause a lot of todays problems, it is the runaway mothers! In joint and shared custody cases the arrearage is a low as 6% and this is atributed to normal financial set backs.

The term "runaway fathers" is a throw back to days what was once called the "poor man's divorce." This is not so much the case today. Many men today have reasons why they don't leave an area, they are property owners, have years of employment with a company and so forth. What we need is a change in determining jurisdiction in child custody and documenting the county of marital domicle at the time of separation. This will provide an unchanging, fixed, stable point from which to work, and then let's find out who is running away the mother or the father. The Uniform Reciprocal Enforcement of Support Act has encouraged mother to runaway enabling them to vent their wrath on their former spouse.

A second factor fathers fall behind in paying child support; the amount was set too high in the begining, refer back to the chart on page 2. Our society has failed to take a realistic look at the true financial nature of the broken home. When an intact marriage breaks up it is the same as going bankrupt, the family goes into financial ruin. Society would be better off telling women they are in for years of financial harships instead of painting divorce as a financially rewarding experience. Unless each spouse and this means both a husband and a wife are each making an upwards of $16,000. a year, divorce is going to mean a lot of suffering, and this is a very conservative figure. The old legal cliche a father must maintain the same standard of living for the fractured family as an intact family does not work. Only 13% of the population in this nation earn a gross income over $22,000. a year. Now how are men with lesser incomes going to support two living quarters, pay alimony and high amounts of child support? How would you like to pay a 10% raise in federal income taxes? Well when a family breaks up men are required by law to pay from 50 to 80% of his earnings and sometimes more to his family, and still he is considered a bumb. I have seen judges order a man to pay more than he earned. This all is nothing but slavery.

Our child support system is oblivious to economic problems the father must face. Once a child support amount is set and it is generally set high because no father ever pays enought child support, needs always out strip available money. Court ordered child support is very ridges, there is no flexiblity. There is suppose to be something magical about fathers on child support. He is only expected to pay on time, everytime, always making increases making more money, A father on child support cannot afford the luxuary of the several areas of financial setbacks an intack family might be subjected to, strikes, lay offs, sickness, job phase outs, unemployment. True it is written into the court system he can go back into court, but then he has to hire a lawyer and if he can pay for a lawyer he can pay the support. Then at the most the best he can hope for is a spreading out of what he owed, just more time to pay a higher amount to pay back funds he never earned, rarely are financial losses even wipped out.

True there are some men that still take off today. But let's look at what point they take off. Most of these take place after an unbareable amount of child support, wife support or alimony has been laid on him. Second, why should a father stay in the same area and take all the guff and harassment he must take from the court system. A father of a fractured family is the lowest form of person in the court system.

Many states have laws stating both parents are equally responsible for the supporting of children, but when a court order is set only the father is doing the supporting. The opinion of Conway v. Dana by the Pennsylvania Supreme Court should be read, 318 A 2d, 324, 326 PA 1974. Pennsylvania has had a state Equal Rights Amendment passed since 1971. There has not been any equalizing of the size of child support nor change in custody awarding since its passage. The Pennsylvania courts are still sex prejudice. When the courts refer to custody they are the mothers children and when they refer to child support they are the father's children. The courts are totally unstable and inconstant. Did you know that under common law the awarding of custody went to the father because he was responsible for their support? And then legislatures changed this and really caused all the problem we have with us today. Do you realize, divorce started to increase when custody awarding went to the mother because she was female and the responsiblity for supporting stayed with the male. What we need to get back to is the common law, custody should go to the parent most willing to provide for the support of children. With some 50% of the female population working today there is reason for a major change in child custody and supporting. Women today are making money, $369 billion a year and they are not staying home to raise children. Fathers with custody are not always in there demanding more money for child support, as a matter of fact most fathers with custody do not get a single dollar in child support money from the mother. Fathers with custody do not make problems with child support, only mothers.

As proposed, 30 days arrearage will invoke garnishment of pay. This might seem fine, even too long a period for those on the receiving end, but how about the payor? There are several normal financial setbacks a family, a father can be subjected to. Should he find himself unable to pay for 30 days his wages will be garnished. Once garnishment is started how long does it go on? When will it end? How areemployers going to look at this? You can be asured many employers are going to take a dim view of hiring any man required to pay child support, wife support, alimony. Many employers are not going to put up with the extra work and expense a garnishment costs them. Many are going to fire such men. Employers do not need the aggravation. Who is going to hire a father paying child support, wife support and alimony? Further, at some time just about every case gets 30 days behind and this could jam up the whole system.

All these laws, regulations are only for the first wife of a man. What about the second wife of a divorced man? Any second family? Are these lesser persons, less important? What about all this equality, "equal protection at the law?" What it really comes down to is special priviledges for a select few.

The demand for this law is being done by these who hope to be on the receiving end driven by prue, raw emotion. There is little if any reason or logic being used, just emotion. THe real, true financial nature of the broken home has never been realized. The broken home has been administered by cold hard facts of law without intelligence. What we need is for some federal agency to make an unprejudice study and I do mean unprejudice, into the true, real financial nature of the broken home, and then let's work from the facts.

George F. Doppler
January 5, 1984

Free Men, Inc.

January 18, 1984

The Honorable Robert J. Dole
Chairman, Senate Finance Committee
141 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Dole:

FREE MEN, an organization representing 3,000 men around the country, wishes to go on record in favor of "balancing amendments" to S. 1691 and H.R. 4325 offered by James Cook, President, the Joint Custody Association, 10606 Wilkins Avenue, Los Angeles, California 90024 (213) 552-9474. We believe these amendments help not only men, but women without custody, wives of second marriages, and most of all, our children -- because of the inescapable link between support and access/visitation.

Mediation and joint custody (shared parenting) not only provide for the most amenable handling of family matters, but studies have shown that support problems lessen when both parents are actively involved in child-rearing.[1] Addressing only the support problems, as the proposed bills do, will aggravate the relationship between custodial and non-custodial parents, to the detriment of our children.

Why should it be easier for a mother to get child support than for a father to see his child? Why should there not be equal treatment between the parties? To the argument that the child needs shoes on his or her feet, and that nothing should affect that, I say: the only people who are against "equal treatment" are mothers (or custodial fathers) who wish to use the child as a "hostage," and not let the youngster see the other parent. The ball is in the court of the custodial parent. If she or he is not using the child as a "weapon," there should be absolutely no objection to access/visitation receiving as much attention in the legislation as child support.

An example: one mother has stated that if the legislation passes Congress in its present form (even with the proviso in H.R. 4325 for state commissions to examine the adequacy of child support enforcement programs in various states), "you (the father to whom she was talking) will never see your child again."

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[1] Studies by Dr. Howard Irving, Faculty, School of Social Welfare, University of Toronto (1983); Center for Policy Research, Denver Custody-Mediation Project (1983); and "Does Joint Custody Work? A First Look at Outcome Data of Relitigation"- American Journal of Psychiatry, Jan. 1982, by Ilfeld, Ilfeld and Alexander.

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What the mother means is that with the guarantee of child support no matter what she does, she can withhold the child from the father and suffer no penalty. She knows that the father is only marginally financially capable, and could not afford to have his wages withheld and fight her in court to see the child. Not only would he have to pay his own legal bills, but under the present system, the court might well order the father to pay a portion of the mother's attorney sfees for defending not allowing him to see the child!

I do not think that anyone who has not been through a bitter custody battle within the past 10 years can fully appreciate the anguish involved in these situations. Nor can anyone who is not actively involved in child rearing possibly understand why fathers (and non-custodial mothers) seek a preference in our court system for joint custody, such as Representative Long (D.-Md.) proposed in his 1983 bill (H.R. 4266). Not an "option" or "consideration" for joint custody, but a preference, or presumption, because preference/presumption have stronger legal connotations.

It is said that unless parents "get along" they can not possibly make joint custody work. Rubbish! Judge Richard Jamborsky of the Circuit Court, Fairfax County, Virginia, last year ordered joint custody in a case over the objections of one of the parents, stipulating that he wanted both parents to return to him in a year to explain how joint custody was working. You know that neither parent wants to return in a year to explain that he or she is withholding support, access, or doing anything else mischievous, because then Judge Jamborsky might award sole custody to the more cooperative parent! Other judges are following Judge Jamborsky's enlightened attitude, but unfortunately, the situation in most courts nationwide is to grant sole custody, disenfranchise legally the other parents, and thereby endanger emotional ties with the disenfranchised parent, as well. It is a situation that has contributed to the very conditions that S. 1691 and H.P. 4325 would (in their present form) make worse.

I earnestly ask you to consider the 23 amendments that have been suggested by James Cook, which are enclosed. Full and ample testimony should be permitted from the many individuals and groups, including child psychiatrists, social workers and mediators, who have asked to testify, and who can not possibly be heard from adequately in the few hours being allowed for their testimony on Jan. 26.

Please, for the sake of all those interested in the reconstituted family after the tragedy of divorce, consider these "balancing" proposals. And take the time and effort to consider all aspects of this extremely complex problem.

Sincerely yours,

David L. Levy
Legislative Director
FREE MEN, INC.
(202) 287-8250 (work)

Enc.: Personal History

Free Men, Inc.

PERSONAL HISTORY

This story is told to increase understanding of why attention to access/visitation problems can help reduce child support problems.

FACTS: In May, 1980, my estranged wife took our four-year-old son Justin from Virginia (where she was living) to Ohio, supposedly for a "vacation". When she called from Ohio to tell me she had moved lock, stock and barrel, I felt as though a part of my guts had been ripped out. I had been actively involved in child-rearing since our son was born, and I saw him two or three times a week despite the parental separation. To have him suddenly taken a far distance, where I would be lucky to see him once a month after a seven or eight hour drive was a shock.

I always thought my ex-wife and I had a kind of "informal joint custody/shared parenting". Apparently, she did not. She gave me an address in Ohio where I could continue to send the $400.00 a month child support checks.

I immediately filed suit in Arlington for sole custody, and that commenced a bitter, angry, year-long battle in the courts. True to such horrible battles, "verbal character assassination" took place as each side's "hired guns," the attorneys, swung into action.

During the summer of 1980, the court allowed me to do long distance "motel parenting," that is, I would drive to Ohio for weekends, rent a motel room, and see him.

By October, 1980, court-appointed juvenile investigators made clear to my ex-wife that she would have no hope of obtaining custody unless she returned to Virginia, which had been our previous residence. She eventually returned, but was still denying visitation, so this prompted several more visits to the courts.

All during this time, I was informed that although my ex-wife was "playing" with visitation, I had better dare not even think of not paying child support, because as court-watchers said, "Fathers are held to a higher standard than mothers."

My ex-wife eventually won custody, but in returning to Virginia, I obtained access (my son now lives in the area). The court found both parents to be "fit," but the battle cost me over $30,000, plus I was ordered to pay a portion of my ex-wife's attorneys fees!

MORE...

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202/543-2332

PERSONAL HISTORY/2

The situation between my ex-wife and me has calmed considerably since the battle ended, but if she were to know that she would be guaranteed child support (via wage garnishment) no matter what she did (I don't believe she would be intimidated by a state "commission,") I am afraid of what might happen. I want to see my son, and yet I could not afford to pay child support and have another financially disastrous legal battle!

Sincerely yours,

David L. Levy, Esq.
Legislative Director
FREE MEN, INC.
(202) 287-8250 (work)

Enclosure: "Good News About Joint Custody"

GOOD NEWS

June 25, 1983
The Joint Custody Association

About Joint Custody

PREPOSTEROUS

There is no such thing as good news
about child support and custody litigation.

Oh yes there is!

A second and new major study* of joint custody performance as compared with sole parent is soon to be issued by

Dr. Howard Irving
Faculty, School of Social Welfare
University of Toronto, Canada

Numerically large sample

200 sets of joint custody parents studied.

Child support

Less than a 6% - 7% default on child support payment by joint custody parents,

as compared with,

72% default on child support payments in sole custody families studied.

Relitigation

Reportedly, the rate of relitigation by joint and sole parents shows a similarly wide difference.

Lack of relitigation is one barometer of comparative satisfaction.

Satisfaction

85% - 90% of the joint custody families report a "highly satistactory" acceptance of joint custody for themselves, and as demonstrated by the children.

* A synopsis of the Irving study is being released shortly; the full study thereafter. The Irving study thereupon joins, as reconfirming support of joint custody, the original analysis of 414 consecutive custody litigation cases by Alexander, Ilfeld & Ilfeld.

HALT
An Organization Of
AMERICANS FOR LEGAL REFORM

The supporters of the Child Support Enforcement Amendments share with HALT the goal of helping individuals avoid the unnecessary use of lawyers and the legal system. One of the main reasons for the creation of HALT is the belief that our society relies on the legal system much more than is necessary. We at HALT believe that many of the tasks commonly performed by lawyers can and should be performed by non-lawyers and, in many cases, by individuals acting on their own behalf. Child support enforcement is a prime example of such a task.

HALT supports this legislation in part because many of its members have suffered a great deal from the present lack of enforcement of support orders. Our case files are filled with stories of women who have been forced to return to court repeatedly to seek assistance in enforcing the awards ordered by the court. Our members are not isolated examples of this problem. Nationally, only about 5 million of the 8.4 million single parent families awarded support actually receive the full amount due to them. Of these, over half receive no support payments at all. The numbers clearly indicate that non-payment of support is a serious problem.

For the parent who does not receive a support payment or does not receive it on time, life can become very complicated. If a personal appeal fails, he or she is left with no choice but to return to court, which is a costly and time-consuming process.

We at HALT do not believe that this should happen. Once a parent has been awarded child support, he or she should not be forced to return to court in order to collect it. Some process should be created which would bring prompt action against a parent when he/she does not pay. The Child Support Enforcement amendments do this.

An important aspect of several versions of this legislation is the portion which requires the use of regular public service and other types of announcements regarding the availability of child support enforcement services. This is an important aspect of the bill, because an entirely new system for dealing with this problem is being created to improve the collection of child support. Its success depends almost entirely on public knowledge of the new system.

The difficulty involved in interstate cases has been recognized by the drafters of this legislation, although the method for resolving problems of this sort is left up to the states, in large part. The bill does make available grants for states which wish to develop and test better means of establishing and enforcing support in interstate cases. Although this clearly serves as an incentive for the creation of a way to deal with this particular problem, some concrete suggestions on this front would obviously be preferable.

The argument that has been raised against this legislation most frequently concerns the rights of the noncustodial parent (who is, in 90 percent of all custody cases, the father). Fathers' rights groups have stated that non-payment of support is commonly a father's response to the denial of visitation rights by his ex-wife. We believe that the issue of visitation should be treated separately.

The legislation specifies, in fact, that denial of visitation shall not be accepted as cause to delay withholding. We must stress that the issue most at stake here is that of the best interests of the children. Receipt of child support payments is often absolutely crucial in order to meet a child's most basic needs such as food, shelter and clothing. We freely acknowledge the fact that visitation on the part of the noncustodial parent may well have a major impact on a child's emotional well-being. In order to more fully address the concerns of noncustodial parents the bill does require that states establish child support commissions to study this problem and the operation of the child support programs in general. Our case files contain numerous letters from fathers who maintain that the courts do not defend their right to visitation as vigorously as that of the mother to receive support payments. Our position should not be interpreted to mean that we support, in any way, the denial of visitation rights, but that it is a problem which deserves to be treated separately.

There is at least one other argument that has been brought against this bill which we would like to address. That is the issue of changed financial circumstances on the part of the noncustodial parent. The point has been made that, should the obligor's salary be significantly reduced, for instance, there should be some way of preventing automatic withholding of the same amount as specified in the original order. Considering the current rates of unemployment, it seems reasonable to take such a factor into consideration.

These comments should not be construed to indicate that HALT's support of this measure is conditional upon such alterations. Although we have indicated the ways in which we believe this could be made a stronger bill, its present form serves a very worthy purpose and one which we wholeheartedly support. We would urge this committee and the full Senate to follow the example of their colleagues in the House and speedily give it their unanimous suport.

STATEMENT BY HARRY D. KRAUSE, ALUMNI DISTINGUISHED PROFESSOR OF LAW, UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN. U.S. SENATE FINANCE COMMITTEE, HEARINGS ON CHILD SUPPORT ENFORCEMENT PROGRAM, JANUARY 24, 1984.

Mr. Chairman and members of the Committee. My name is Harry D. Krause, and I am professor of family law at the University of Illinois. I am here unpaid, at my own expense and represent no person, organization or interest group. But I have been concerned with improving the law of child support for some fifteen years and sincerely appreciate the opportunity to be with you today.

A little longer than ten years ago, I was a consultant to this Committee's staff when this child support legislation was drafted within the framework of H.R.1 and, ultimately, H.R. 17045 (93rd Cong. 2d Sess., 1974). As a critical observer of the child support enforcement scene since long before there was any enforcement, I wish to begin with praise for the federal effort which -- in just seven years -- has brought forth a renewed sense of individual responsibility in family relationships and has turned around what eight years ago seemed to be an unstoppable and accelerating trend toward welfare dependency. From nearly nothing, collections now approach 2 billion dollars a year. From hardly any, last year saw 173,000 fathers ascertained for nonmarital children, for a total of three quarters of a million since 1978. Beyond that, no one can count the welfare cases not opened because of voluntary payment of child support, and the families not broken up because the financial incentive is gone.

Because of -- not in spite of -- the success achieved in the first seven years of the program, I urge you to stand back for a moment. Seeing how far we have come, it should be a priority now to improve the program, both in terms of quantity -- increasing collections, and in terms of quality -- making it a fairer process.

Permit me to sketch out a few ideas regarding legislative policy that agree with but go beyond the proposals specifically before you. (I must admit that I am no longer quite certain which of the many bills recently introduced are still "alive"). H.R. 4325, passed by the House last November, certainly is going to be good law. I have long advocated mandatory deduction of support orders from wages (H.R. 4325, H.R. 2090, H.R. 2374, S.888; H.R. 3546, S.1691; H.R. 3545, S.1708; H.R. 3354; S.1777), and simplified "quasi-judicial" proceedings (with recourse to the courts) for the establishment of paternity and the imposition and adjustment of support obligations (H.R. 3545, H.R. 3546, S.1691, S.1777).

Beyond that, I hope to encourage you to give thought to three important and "do-able" proposals each of which, I think, reflects a realistic approach to improving the quality of the enforcement program. My proposals involve:

(1) federal guidance in setting reasonable support obligations, not too low, but also not too high (compare H.R. 2090, H.R. 2374, S.888, S.1777 on substance; and H.R. 3545, H.R. 3546, S.1691, S.1708, S.1777 on procedures);

(2) bringing back some sort of "support disregard" in calculating AFDC benefits;

(3) according the same fair (due) process to men named as fathers in

paternity cases that our legal system promises to all of us (compare H.R. 2090, H.R. 2374, S.888, especially on paternity testing, and H.R. 3545, H.R. 3546, S.1691, S.1708, S.1777, regarding quasi-judicial or administrative procedures for support orders, and consider my approach in §§ 10-13 of the Uniform Parentage Act).

At first glance, each of my proposals may seem to threaten reduced reimbursement for welfare expenditures. This pushes me to emphasize that I always have stood and continue to stand with both feet on the pro-enforcement side (and to attach my "alibi").[1] If I may say so, my proposals look toward "better", "fairer" and more "just" enforcement, and while they may not at once improve the dollar balance sheet, they surely will improve the social cost-benefit ratio of the enforcement program.

I. Defining A Realistic Child Support Duty

A cynic may hypothesize that state child support laws, both in terms of substance and enforcement procedures, have been permitted to survive in their present state of disarray, unevenness and consequent unfairness only because they have not been enforced with any degree of regularity. Indeed, the irresponsibility of many fathers may be partly explained in terms of unrealistic obligations being imposed under unrealistic laws. This is a matter of state law. How have the states responded since enforcement became the rule rather than the exception?

They have - emphatically - not risen to this challenge. This is the time to conclude that the federal initiative must no longer stop at the utilization of these inadequate state laws. As I see it, the federal activation of these laws imposes a corresponding responsibility on the federal authorities to assure that the states develop more sensible, more uniform and more predictable support laws. With all reasonable respect for state sovereignty regarding family law, federal law should ask OCSE to play a more important role in defining standards for more acceptable state law in the support enforcement area. The provision of H.R. 4325 that charges the proposed State Commissions on Child Support to establish appropriate objective standards of support involves at least a recognition of the problem although more specific federal legislation requiring the setting of national norms would be better. Under current law, OCSE has not felt called upon to provide much leadership and, for 1980, stated its position as follows:

> "One of OCSE's goals * * * is to assume a greater role in improving the child support laws in the States. However, our role is to encourage, not mandate, the States to adopt model legislation, and effective enforcement procedures."[2]

As I see it, in the context of OCSE-sponsored support enforcement, federal minimum standards should (1) mandate less arbitrary and diverse conceptions of the "needs of the child" and the "father's ability to pay", (2) set standards for automatic and, in appropriate, rare cases even retroactive, modification of existing orders, and (3) insist on less counterproductive methods of support enforcement, than are now the rule. In one sentence, it should be an important goal of federal involvement to assure that state enforcement efforts do not reach the point of increasing, instead of reducing, social disorganization. First and foremost, this involves manageable, live and let-live, levels of support.

The "needs of the child" must be balanced against the father's "ability to pay". On the side of the child this task is rather simple - housing, food, clothing, etc. - and I shall not waste time. On the side of the father, it becomes more complex because the father must first be

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assured a standard of living that does not impair his earning capacity, his work incentive, nor his ability to provide for himself and his current functioning family (if he has established one). Only then do we arrive at money that is "disposable" on behalf of the child.

Let me highlight three problems in this area, all relevant to the goal of defining the father's resources that are "disposable" as child support (or AFDC reimbursement): (1) the question of enforcing arrears, (2) the idea of imposing flexible support obligations and (3) the proper balance between the father's "old" and his current family.

Arrears: Even if the initial order may have been reasonable, it is the overwhelming accumulation of unpaid past support that persuades many a basically willing father to shirk responsibilities that have become unrealistic. I continue to believe that, in appropriate cases, retroactive modication of accumulated arrears should be allowed, and indiscriminate enforcement of arrears should not. The "arrears problem", I am afraid, was not adequately considered in the recent amendment to the bankruptcy laws. For the future, I am happy to note, mandatory wage deduction and careful monitoring of compliance will provide much of the answer, but only if paired with the imposition of flexible child support obligations that are geared directly to the fluctuating earnings with which most of our population (though not the judges) lives.

Flexible Support Orders. Regrettably, support judgments with automatic adjustment clauses to take into account temporary fluctuations in income are rare, as are automatic child support escalator clauses. Used carelessly, such clauses run the risk of overemphasizing one side of the support equation. On the paying parent's side, an adjustment clause geared to decreases in income will avoid the accrual of large arrears - possibly with interest - that very likely can never be paid. (Consider Brazil, Mexico and Poland!). Of course, an income decrease does not necessarily signal inability to pay (when the obligated parent has assets), just as an increase in the supporting parent's income does not necessarily entitle the child to more support. Concerned about these problems, the rare cases that have involved automatic adjustment clauses have not favored them. The courts have remained very jealous of their discretion in this area.[3] Too jealous!

Despite legitimate concerns, intelligent use can be made of automatic adjustment clauses. We can and should assign clearly defined consequences, in terms of support to be rendered, to clearly ascertainable, objective events such as inflation[4] (measured by a variation on the Consumer Price Index that is specifically geared to the needs of children), and the child's foreseeably increasing needs based on increasing age. On the father's side, we should focus on income fluctuations evidenced by his income tax return or, once support is routinely deducted from wages, we shall get a quicker response from wage data. This must include the temporary fluctuations that, under typical current law, are not grounds for modification, such as short-term unemployment. These consequences should be assigned in presumptive, not conclusive, terms, so that only the "average" case would take care of itself. In the less usual case, the party to whom compliance with the automatic adjustment clause would bring inequities should shoulder the burden of proof (and take the initiative of invoking the court) to obtain an appropriate modification.

This approach would go some distance toward the important goal of reducing the too frequent, expensive and wasteful recourse to the courts that our present system invites, indeed compels for *both* sides. Equally importantly, the imposition of "self-adjusting" support orders would prevent the accrual of "unfair" arrearages in cases where the father is not only unable to pay support, but does not have the funds to hire a lawyer to go to court for a modification in his support obligation *to which his changed circumstances entitle him*.

The question whether, in an appropriate case, modification should be allowed *retrospectively* and thus wipe out or reduce accumulated arrearages has been answered variously. The better view, it seems, would permit the elimination of "impossible" arrearages and some courts achieve this under specific or general statutes.[5] Other courts have steadfastly refused to consider retroactive modification.[6] A related question is whether the obligated parent's support liability can be discharged in bankruptcy. As to future support, the answer clearly should be (and is) "no".[7] But I think that it remains an interesting question whether, when seen in the light of the prevailing non-modifiability of arrears for any reason, the provision in the Bankruptcy Reform Act of 1978 which *permitted* the discharge of child support obligations that had been *assigned* to the welfare authorities[8] was altogether as unreasonable as it was made out to be when Congress revoked the exception.[9]

Now to a third specific question that involves the "father's ability to pay": *What if a "second", current family is in the picture*? Is it unreasonable to conclude that support enforcement for a "first family" becomes socially counterproductive when it threatens to deprive a "second family" of a realistic basis for economic survival? To ask the question in these loaded terms is to answer it. However, we must first define what is a "realistic" basis for economic and social survival? Current state law draws no "bottom line" (relating to the father's income) below which support obligations will not be enforced, and neither does current federal law nor OCSE directives. That such a line should be set seems clear. The unanswered question is where that "bottom line" is to be set. Traditional state law, of course, would consider the needs of the prior family first and either ignore or discount the father's new responsibilities.[10] This approach seems untenable in terms of policy as well as in the light of decisions equalizing the support rights of legitimate and nonmarital children. If discrimination on the basis of illegitimacy is not permissible, discrimination on the basis of priority seems equally untenable.[11]

The logical conclusion from this would be to put all children on an equal footing regardless of priority (although age would figure quantitatively in terms of need). The support award for children would thus be determined on the basis of full equality of each child's claim on the father's resources. The next question, however, is "what resources?" And it seems obvious that the term must be refined to encompass disposable resources only.

Inevitably, the definition of disposable resources turns us back to the question of whether the analysis of the father's "ability to pay" may give priority to his current responsibilities and arrive at a support duty regarding earlier responsibilities only after the needs of his current family are satisfied?[12] It seems to me that, despite the constitutional considerations that favor equality, it is a permissible, even a "compelling",[13] state purpose first to assure a basis of economic and social survival for the current family before a payment to other dependents is exacted. This argument would seem to permit some inequality of support apportionment between "old" and "new" dependents - in favor of the new. The open question remains how much?

Under contract with OCSE, the Greater Community Council of New York developed in 1977 a "Guide for Determining the Ability of an Absent Parent to Pay Child Support".[14] OCSE transmitted this study to all state agencies, and some may actually follow it.

That Study was a sincere attempt to take into acçount various factors that should be considered in fixing support obligations. It adopted the reasonable principle that enforcement must stop at a certain point and fixed that point by reference to federal definitions of budget standards that are automatically adjusted for inflation and changes in living patterns.[15]

The trouble is that the proposed budget pushed the Community Council to an unrealistically high income level before there would have been any payments to an "old" family. This is not surprising since the budget proposed for the father's new family was derived from actual income and consumption figures in "normal" (presumably undivorced) U.S. households. In this manner, the Study bootstrapped itself to reach a conclusion that would have prevented significant amounts of child support from being collected from absent parents who earned less than middle class incomes.[16] Obviously, that won't do.

At the other extreme, we might think of equalizing the situation of the father's old and new families by reference to the AFDC benefit level.

This idea has a certain plausibility in that it would provide true equality. I do not, however, see this approach as tenable. We must remember that AFDC benefits do not reach the poverty level in any state.[17] You may recall that the House of Representatives voted in the fall of 1979 to set a first-time national standard for minimum AFDC benefit levels at 65% of the poverty line.[18] And the House was trying to be generous! (Some caution - more than can be detailed here - is indicated, however, in view of substantial "in kind" benefits flowing to AFDC recipients. Appropriate adjustments would be in order).[19]

If AFDC support for the "old family" were more adequate (and more uniform nationally), it might possibly be defensible to give the father's current family the overriding weight the New York study recommended. However, given the current state of affairs, application of the Council's recommendations would produce potentially enormous differences between the standards of living of the father's first and second families. By excusing contributions from a father who enjoys the relatively satisfactory standard of living proposed in the Community Council's budget, the proposed formula unacceptably relegates "earlier" children to the relative squalor of inadequate AFDC support.

A more realistic but still very tough formula might define the father's disposable resources (those that are to be shared equally by all of his children) as any amount above the federally defined poverty line. With appropriate adjustments for age and special needs (*e.g.,* health), that formula would ratably apportion the father's earnings in excess of the poverty level between his old and his new responsibilities.[20] Most reasonable people would agree that the "bottom line" below which there is to be no support enforcement relating to earlier responsibilities should not be drawn lower. Some may wonder whether the "poverty line" is not too low, and whether this approach would provide an acceptable balance between the defunct and the functioning family.

Wherever it is set, a socially productive support enforcement policy must identify that "bottom line" or we shall not -- in many cases -- avoid the worst of all possible consequences of the enforcement program: two broken families where previously there was only one.

II. A "Support Disregard" in Setting AFDC Benefit Levels - Should More (Some) of the Father's Money go to his Children?

While society's interest in the economic and social survival of the currently functioning family is admittedly great, it does not follow that this social interest should be asserted at the sole expense of the "earlier" children.

If you agree that it would not be sound policy to take the father's new family down to the AFDC level, you may wish to consider an alternative that would help move the father's "earlier" children up to a budget similar to that allowed his current family - even if that be only a partial solution.

I should like to propose a new formula for applying the father's support payments under which more would go to his children and less for reimbursement of the State. The resulting inequality between AFDC families with paying fathers and those without, can be justified more easily than the inequality now threatened in the balance between the father's earlier and current dependents.

Specifically, I want to raise the recommendation that the absent father's support payment be used first to bring his AFDC family up to a federally defined minimum standard, such as the "poverty level" (adjusted by regional cost of living factors), before the State insists on reimbursement for aid previously rendered or deducts the father's payments from aid payments currently made. If this (really not extravagant) solution does not seem feasible in the political tug of war between state sovereignty and federal influence (and money), there is the intermediate - *truly minimum* - position that the father's support payment should at least be used to bring his family up to the *state*-defined "AFDC need standard" before it is applied to assistance reimbursement. This compromise would help in those *twenty-odd states that pay less than their own standard of need.*[21]

What do we do now? Leaving aside complex technicalities, current child support payments reduce current AFDC assistance dollar-for-dollar and even payments on arrears are withheld until past assistance is reimbursed.[22] This was only not always so. For the first fifteen months of its operation, the new federal law allowed 40% of the first $50 of each monthly payment to be "disregarded", *i.e.*, a maximum of $20 per month was given to the children over and above their AFDC allowance.[23] This provision expired in 1976.

The revival of a limited "support disregard" would have four important policy dimensions: First, allowing the children a tangible benefit from the father's contribution will provide an incentive to the mother to cooperate in locating (and ascertaining) the father. Second, if fathers saw their payment moving their families into a (somewhat) better position than that of families for which no support is collected, there probably would be a salutary effect on many a father's willingness to pay. Moreover, the idea of a "support collection disregard" is not new, nor foreign in principle, to existing AFDC policy: It would be closely analogous to the "earnings disregard" current law allows AFDC mothers and students to encourage them to go to work.[24]

Third, as discussed earlier, allocating some of the father's support contribution to the children over and above their AFDC allowance will help alleviate the serious problem of dealing equitably with both the father's current family and his "earlier" dependents.

Finally, giving (in appropriate cases) children a direct benefit from their father's support payment would help reduce - what seems to me - the most blatant inequity of the AFDC system: the widely different benefit levels provided in the several states under varying state formulas for determining "need", as accentuated further by each state's own choice as to what percentage of the state-defined need actually is paid to recipients.[25]

III. Due Process For Men?

Now and last, I do want to put in a word for according due process to men accused of paternity. I do this after having worked ceaselessly on behalf of equalizing the rights of the nonmarital child with whom my sympathy remains. But not even the child is served fairly, if a non-father is labelled as its father. Some would say that actual paternity is a biological accident of less importance than the fact that the man had a sexual relationship with the mother. I answer that argument with the fact that biological relationship is the test our (and all but universal) law has used since time immemorial to fix parental and filial rights and obligations. Unless a man willingly and knowingly "adopts" someone else's child, it thus behooves us to "tag" the true father, and only him.

It is true that improved paternity procedures will raise collateral enforcements costs and may threaten a program's good-looking cost vs. collection ratio. Worse, a fair trial for men named as fathers of nonmarital children is costly not only because of the expense of blood tests, but if the tests exclude the accused as a potential father, the enforcer has lost a potential support obligor! Prosecutors (and support enforcement authorities generally) have been understandably reluctant to commit scarce funds to activities that seem to work against their own interests.

Why mess with a good thing? My good friend Judge Kenneth Turner of Tennessee's Shelby County explains that "ninety-five percent of the suspected fathers admit paternity even before the case comes to trial" and, in Forrest City, Arkansas, Samantha Fisher, a IV-D official, boasts that "seventy-five percent of the people I interview admit paternity and we have no problem getting payments from them."[26] Similar reports come informally from all over the country. But how many of these men are in truth the fathers? What is it that causes these men to admit paternity so freely and incur eighteen years of support liability? Is it what Judge Turner thinks - "most of these guys feel pretty good afterward about having done the right thing" - or do these men simply admit sexual access to the mother and feel uncomfortable with the idea that "their" girl may have had a concurrent relationship with another man at the probable time of conception? To identify the error rate, a useful study - I have long wished would be commissioned - would run full blood tests on a representative sample of men who admit paternity for the asking. It is by no means inconceivable that the results of such a study would be quite sobering and compel the conclusion that voluntary admissions of paternity should be accepted only upon investigation and, if there is any doubt, blood tests.

On the other hand, a useful answer hardly is to be found in throwing heavy wrenches into the path of enforcement officials who procure voluntary admissions of paternity. The California case of County of Ventura v. Castro,[27] may be too tough on the over-eager welfare official and "too fair" to the "would-be-father" and does not point to an acceptable future. It seems to me that, now that Washington is putting its resources and initiative behind the ascertainment of paternity, it should not keep its hands off the means by which these obligations are established. The program's primary concern with giving the child and the taxpayer their due must now be matched with equal concern that the man accused of being the father really is the father. As I see it, fundamental reform of the paternity action is the most pressing task in this area. Reform is needed as much to facilitate finding a responsible father for the nonmarital child as to protect the possibly considerable number of men who are falsely accused of paternity.

Reform should move on two interrelated levels: A new procedural framework for the paternity action must improve the quality and the volume of adjudication. More efficient and speedier proceedings must nevertheless provide fuller safeguards for falsely accused men. Within that framework and to achieve both objectives, medical evidence must play a cardinal role.

Years ago I co-chaired a joint AMA-ABA Committee that, by 1976, developed Guidelines on Paternity Blood Testing.[28] These Guidelines have been very useful and have found considerable acceptance in the courts.[29] Before that, working with the Commissioners on Uniform State Laws, I developed the Uniform Parentage Act[30] - now enacted in nine or ten states[31] - specifically in response to the U.S. Supreme Court decisions securing the nonmarital child's substantive rights.[32] The Act (§§ 10-13) sets out a framework in which traditional, cumbersome paternity practice is superseded by an efficient and constitutionally sound "quasi-judicial", administrative procedure. The central goal is fairness to the child as well as to the accused man. Regrettably, the Act has been "shot down" in a number of states by short-sighted state's attorneys who thought they saw their jobs becoming more demanding, their "cost-benefit ratios" declining, and who did not particularly care whether it was the *father* who paid the support, so long as someone died.

With or without the Uniform Parentage Act, nothing in the area of paternity is in need of attention as urgently - and as easily accessible to constructive federal involvement - as is blood testing. True, blood typing tests will reduce the number of men now held liable for child support, but *only by eliminating the non-fathers now ordered to support the children of other men*. Moreover, not *all* aspects of blood typing tests work against the child support enforcer. Probability calculations will in many cases provide circumstantial evidence that positively indicates paternity.[33]

I continue to favor strongly the enactment of federal legislation (actually passed by the Senate several times in the early 1970's)[34] that would provide blood typing at federal expense. Today, the U.S. Supreme Court may be cited in support,[35] and I urge that similar legislation be reconsidered. Even under existing law, in its assigned role as developer and supervisor of state plans for ascertainment of paternity, OCSE could do more than it does. OCSE could designate and accredit qualified laboratories[36] in cooperation with an appropriate private or public "expert" agency, so that we shall get away from the dangerous current practice of some enforcement agencies that simply assign paternity testing to the lowest bidder, without effective quality control. OCSE also might give early consideration to recommending or requiring (as a part of state plans) adherence to standard procedures that would facilitate the introduction of blood typing evidence into the courts which, in many states, still faces expensive technical obstacles under the law of evidence.[37]

Concluding, I want to reemphasize that I am impressed with the progress that has been made in this area in seven short years. Nothing I have said may be construed to be critical of the principle of enforcing child support obligations -- I repeat that my record shows that conclusively. I suggest here a few improvements that seem to me to be reasonable, realistic and consistent with bills now before you. Together they would, at little cost, take the enforcement program onto a more rational and fairer plateau. If you were to consider my points, I should be grateful.

MALE PARENTS FOR EQUAL RIGHTS
and
THE SECOND WIVES COALITION

January 20, 1984

The Honorable Robert Dole, Chairman
Senate Committee on Finance
141 Hart Senate Office Building
Washington, D.C. 20510

RE: Child Support Enforcement Amendments of 1983

Dear Senator Dole:

This letter is addressed to you as Chairman of the Senate Committee on Finance with respect to S. 1691, and is, of course, being copied to the other members of the Committee and the remainder of the Senate. For ease of reading and subject content this letter is divided into "Topic Headings", not so that each shall be considered of equal importance, but more to separate areas of concern as Male Parents for Equal Rights and the Second Wives Coalition sees these concerns.

A. GENERAL.

In examining and comparing S. 1691 to HR 4325, we look upon S. 1691 far more favorably than the House counterpart. In fact, we view the House counterpart as most destructive, punative and indeed a danger to our american way of life! it is almost as if the House had declared war upon the non-custodial parent, and it is interesting to note that the House counterpart of S. 1691 actually passed in that body with a larger margin than when this Nation declared war on the Axis powers in World War II.

It is far too easy to allow the emotionalism of a few extreme cases of a non-custodial parent in his/her failure to support his/her offspring to become the focal point of corrective legislation, while failing to recognize that the vast majority of non-custodial parents very often exceed their duty to their children. Let us not, therefore, pass a law designed to bring a few "rotten apples" into line with appropriate standards and at the same time enact legislation to the ultimate detriment of the thousands upon thousands of support paying non-custodial parents who could be adversely affected by the House version of the bill. It should always be remembered that in any instance in which the custodial parent relates the failure of the non-custodial parent to provide for his/her child that there might be a just cause for such failure, such as, concealment of the child, lack of funds thru job loss or general business reduction and many other considerations. There very seldom is an absolute black and white situation in the area of 'domestic relations'.

While these two organizations, Male Parents for Equal Rights, and The Second Wives Coalition, deplore the necessity for S. 1691, we feel that we can support the Senate version of the bill with some reservations. You will note that in the succeeding "Topic Headings" we have raised areas of concern and make suggestions/recommendations. However, we have selected out two (2) items headed G. VISITATION ENFORCEMENT, and H. FOSTER CARE, which we believe are essential to our unequivocal support of S. 1691, but more important than our support of S. 1691, we believe these two items to be essential to the well-being of the children for whose purpose this bill is realy intended.

It is our fervent hope that you and the remainder of the U. S. Congress, can adopt these two items subheaded below as G. VISITATION ENFORCEMENT, and H. FOSTER CARE, for what they are intended to be: "In the best interest of the child".

B. CONSTITUTIONALITY.

We can not pass over the question of the constitutionality of either the House or Senate version of the bill without raising the question of constitutionality when comparing the purpose of this bill with the various decisions of the Federal Courts concerning the 10th Amendment to the U.S. Constitution. But, at this stage we are willing to leave this question to others who are probably better able to determine this question.

C, JURISDICTION.

This is an area of great concern to us as we note that under the Uniform Parentage Act jurisdiction can be either in the state of conception or in the state of birth. While, the Divorce Codes of the various states can obtain jurisdiction to determine support by personal service, and in many states under so-called long-arm statutes. These long-arm statutes, in those states having them, are also equally applicable to the various state support statutes. In the URESA acts, as adopted by the various states, we are not aware of a single version that allows the non-custodial parent, in a foreign state, to use URESA to meet his/her change of circumstances until such time as the custodial parent initiates the action under URESA. While we do not pretend to identify all the possibilities the following represents a partial list of the problems when the question of jurisdiction is raised:

1) Is jurisdiction in the state of conception?

2) Is jurisdiction in the state of birth?

3) Is jurisdiction in the state in which the child is presently living?

4) Is jurisdiction in the state in which the non-custodial parent is living?

5) Is jurisdiction in the state from which the non-custodial parent departed (and for how long)?

6) Is jurisdiction continued in the state where a Divorce Decree was granted, or the support order was issued, even tho neither parent or the child continue to reside there (and for how long)?

It seems to us that there ought to be some uniformity in this area, on a nationwide basis, and we feel that, if the U.S. Congress can establish a standard of jurisdiction, as it did on custody matters in the Parental Kidnaping Prevention Act of 1980 (PL 96-611; 28 USC 1738A), then, so too, the U.S. Congress should address the same question of a standard of jurisdiction in support matters. Again, this is a question we are content to leave for future resolution.

There is however an item in this area which we feel should be addressed immediately and that is that many courts, across the Nation, fail utterly to state the manner in which they have obtained jurisdiction to determine child support or to even enquire as to whether the parties are properly within their jurisdiction. This is particularly problematic in small states and areas of large states that are close to the borders of a foreign state. Thus we would reccommend that serious consideration be given to the adviseability of requiring the various courts to include in their support orders their findings by which they obtain jurisdiction of the issue of support and of the persons, and the statutes by which such jurisdiction is determined. We would even go so far as to suggest that the failure of a court to determine jurisdiction and a reduction to writing of such determination should be sufficient for any support order, omitting the same, to be void and of no effect, _ab initio_.

D. STANDARD.

In a quick review of a model situation (incomes of both parents and the needs of the child being constant) we found that in applying the same set of circumstances to the States of Oregan, Pennsylvania and Delaware, the support for one (1) child could be anywhere between $105.66 and $367.16 per month. With such a wide difference of child support, based solely on where the non-custodial parent resides, one is left wondering as to whether it is the child or the non-custodial parent who is being denied equal protection under the law. Again, however, we are willing to leave this problem to a later date as we have recently learned that the Department of Health and Human Services is presently awaiting the results of a study commissioned by that Department to determine if a national standard is, or can be, approriate.

E. ALIMONY/CHILD SUPPORT

We have noticed the increasing prevalence of courts to issue spousal support (alimony) and child support orders as un-allocated amounts, thus making the entire amount tax deductable to the non-custodial parent under the Internal Revenue Code. While we recognize such practice is most definitely permissable under current law we are concerned with the fact that the effect of our present law is to shift some of the burden, (and in some instances all of the burden) to other tax-payers. We see no reason why a non-custodial parent should be able to have a tax deduction for child support via way of un-allocated spousal and child support and then to have the custodial parent to have a second tax deduction for the same child via way of an exemption.

We believe, again, possibly at a later date, that the Committee should eliminate this double tax advantage so that child support will be properly identified for what it is and so that the non-custodial parent may by that knowledge be more appropriately encouraged to fulfill his/her obligation in that area, and so that other tax-payers not be improperly burdened thereby.

F. WELFARE/AFDC AS A LOAN.

So much of the burden of child support is placed on the non-custodial parent by Welfare/AFDC that one would believe that only the non-custodial parent has any duty to finacially support a child. But, nearly every state has adopted a position, by statute, that both parents have a duty to support a minor child. No longer, by most states' law, is the father of a child solely responsible for child support. The mother of a child has either an equal or equitable obligation to participate in that duty. In fact, if a custodial father is receiving Welfare/AFDC then the Bureau of Child Support Enforcement will pursue a non-custodial mother with equal, un-relenting, tenacity as they pursue a non-custodial father. How then can one require only the non-custodial parent to be solely responsible to re-imburse Welfare/AFDC and require nothing from the custodial parent.

Surely, the custodial parent has some degree of obligation and should not that degree of obligation be considered but an advance against future collection, when able from the custodial parent, as it is against future collection from the non-custodial parent. Would not the dignity of a "governmental loan" be preferable to a governmental welfare payment. And, would not the knowledge of accumulating indebtedness for such "governmental loan" hasten those, who are able, to remove themselves from Welfare/AFDC. We are not suggesting that in some instances that the "governmental loan" should not be "forgiven", but rather that the perspective of Welfare/AFDC be changed from that of a right, of a custodial parent, to that of Welfare/AFDC being an act of government as the "lender of last resort" to those in temporary need. The Welfare/AFDC 'recipient', as a Welfare/AFDC 'borrower' is far less likely to be a Welfare/AFDC 'fraud' if all Welfare/AFDC money has a potential of having to be re-paid at some future date. The resourses of this Nation would, and should, be recyclable by those who use them and the tax-payers of this Nation would feel more comfortable in the more certain knowledge that their tax-dollars were not being squandered upon the lazy, the shiftless, or the indolent. Again, we offer this point for future, though we hope, not too distant, consideration.

G. VISITATION ENFORCEMENT

We of Male Parents for Equal Rights and the Second Wives Coalition consider it absolutely imperative that recognition must be given by the U.S. Congress to the enforcement of visitation rights intra-state as well as inter-state as provided under Section 8 of Public Law 96-611.

We draw the attention of the Committee to the fact that 20% (one in five) of all women married for the first time marry a previously married man and we would also draw the attention of the Committee to the estimate that 50% of all marriages are of the type in which the wife is in fact the second wife and/or step-mother. Conversely, there is a certain amount of reciprocality in that many husbands are the second husbands and/or the step-father of many of these children.

Married life is not, as most of us know, entirely a bed of roses, but do thorns have to be unnecessarily placed in the marital bed by those person who would deny right of access to a child of an ex-spouse, especially since this person is not an ex-parent. Let us also consider, if you will, these questions:

1) Does the child have the right to know and be loved by both parents?

2) Is the "best interest" of a child solely to be measured in monetary terms or are those "best interests" also measured in discipline, education, religious training and human experience with parents of both sex?

3) If visitation is regular and enforceable could instances of child abuse be reduced?

4) Does not the non-custodial parent have rights equally entitled to enforcement as the rights of the custodial parent?

We could go on, but we think the Committee can understand our concern not only with respect to the immediate non-custodial parent, but also, the non-custodial grandfathers, grandmothers, aunts, uncles, nephews, neices, and even half-brothers and half-sisters; the heritage and social fabric of our Nation.

We do not believe that the Committee need go very far to relieve the appearance of unrelenting antagonism against the non-custodial parent if it were to borrow just a few words from Public Law 96-611 (the "Parental Kidnaping Prevention Act of

1980") and adapted to read somewhat in the manner as laid out herebelow. Conforming as much as practically possible with the wording used in already existing federal law.

> "Sec _____. In order to comply with the provisions of this Act, each State shall adopt and use procedures, consistent with regulations of the Secretary and in accordance with State law to increase the effectiveness of visitation rights by requiring that:
>
> a) The appropriate authorities of every State shall enforce according to its terms any child custody determination made consistant with the provisions of the Parental Kidnaping Prevention Act of 1980 (PL 96-611; 28 USC 1738A) whether made by a court of the resident State or of another State.
>
> b) As used in this section, the term--
>
> (1) 'appropriate authority' means a Sheriff, deputy Sheriff, Constable, or other Conservator of the Peace.
>
> (2) 'child' means a person under the age of eighteen.
>
> (3) 'custody determination' means a judgement, decree, order of court, or contractual agreement, providing for the custody or visitation of a minor child, and includes permament and temporary orders or agreements, and initial orders or agreements and modifications.
>
> (4) 'resident State' means the State in which the child is actually living with his parents, a parent, or a person acting as a parent, or is physically present, at the time a non-custodial parent, or other person, has a right of custody or visitation.
>
> (5) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States."

These organizations, Male Parents for Equal Rights and the Second Wives Coalition, do not believe that the foregoing is that much to ask, especially, as it would represent the "best interests" of children and parrallel existing federal law.

H. FOSTER CARE

We would view the present Sec. 8. of S. 1691 (pertaining to Foster Care) the second item on which both Male Parents for Equal Rights and the Second Wives Coalition must withhold its endorsement of the entire bill, unless substantial change can be made.

Again, in order to bring the problem into focus as quickly as possible we ask the following questions:

1) Why should a parent or parents pay any amount for foster care over and above that amount paid by the State for such foster care?

2) If the cost of foster care of a child is less than a support order is that not indicative that the support order is too high and should not the parent or parents be re-imbursed for any excess?

3) Since most foster parents have more than one foster child from different families, how can it be justified for that foster parent to have more money for one child than another (assuming the same ages and needs)?

4) If more money is available for one child than another, how would it be possible to prevent a parent's child support from being dispensed, in part, to the benefit of a child for whom he/she has no legal responsibility.

5) Is child support child support and if so why should the State be the trustee for any amount in excess thereof and can not the non-custodial parent/parents decide how the excess beyond child support be spent? (i.e. How a parent wishes to use money in excess beyond the common law requirements of support must surely be a prerogative of the parent and not of the State?)

6) If the foster parent, or the State, is to receive more money for the care of certain children could such a "windfall" influence the period of time that a child might remain in foster care before being returned to natural parent(s) or being released for adoption?

We believe that excess monies must be returned to the parent or parents in direct proportion to which they have contributed to the foster care maintenance payment for a child. To do less is nothing but outright "thievery" on the part of a public agency. For this reason we propse that S. 1691 be amended in a manner somewhat as proposed on the following page.

"Amend Sec. 8(c) [Page 19 of S. 1691] at line 6 by changing the comma (,) to a period (.) and by striking the remainder of the paragraph commencing with the words: "to the extent..." and ending after the words: "...child care placement." on line 22 of page 19, and substituting in lieu thereof the following sentences:

> "Amounts in excess of those paid by the State as foster care maintenance payments shall be retained by the State to the extent they do not exceed the total of past foster care maintenance payments (or payments of aid to families with dependant children) made on behalf of such children (and with respect to which past collections have not previously been retained); any balance in excess thereof shall be re-imbursed within thirty days to the parent or parents or other obligors in proportionate amount to the parent or parents or other obligors whose child support for a month on behalf of a child exceeds the foster care maintenance payment for such child. No State may seek either by voluntary agreement or by court order any amount of monthly child support for a child in foster care which amount would exceed the monthly foster care maintenance payment in effect in the State where the child is in foster care. Nothing in this section shall prevent a State from establishing and collecting an additional monthly amount over and above the monthly foster care maintenance payment amount as arrearrages to reimburse the State for past foster care maintenance payments (or payments of aid to families with dependant children) made on behalf of such child."

I. CLOSE

We hope that we have provided the Senate Finance Committee some help towards solving some of the problems concerning child support and while we have covered many areas with the hope that they may all be attended to at some time we have however put forth our best effort to limit our requirements of changes in the bill to just two items, VISITATION ENFORCEMENT and FOSTER CARE. We are painfully aware that you can close your hearts and minds to us and that there is essentially nothing we can do to prevent passage of either bill (S. 1691 or HR 4325) if you have a mind so to do. However, we do not believe that a bill which is supported by only one sex, and opposed even by many of that same sex can brook well for the Nation. There are too many women who are second wives, mothers, sisters, aunts and girlfriends for their needs to be totally disregarded by the U.S. Congress because of a few unfortunately selfish and vociferous members of that sex. We do not come to you either as members of Male Parents for Equal Rights or the Second Wives Coalition to fight the battle of the sexes, but rather to end that battle and do that which is in the "best interest" of all our children.

We therefore re-iterate our position. If the U.S. Congress can accept our proposals with respect to VISTATION ENFORCEMENT and FOSTER CARE as we have outlined in detail above, then, and only then, would we be able to lend our support and backing to S. 1691. We can not lend our support and backing in any manner whatsoever to HR 4325 as we consider that particular bill to be so grossly flawed with vituperation and hatred as to be a blot upon the Nation.

We have testified before the Senate Committee on the Judiciary for the "Parental Kidnaping Prevention Act of 1980", attended as a "National Observer" the White House Conference on Children, been invited by the White House to the National Conference on Dispute Resolution in January of 1983, and been able to help improve many domestic relations laws not only within our own State, but also in our neighboring States. We ask now, only, that your Committee recognizes that we have some knowledge of the nature of domestic relations and the needs of our children and give serious consideration to our proposals as a means to protect and improve the "best interests" of our children.

May we ask that this letter be made a part of the record of the "Committee Hearings" on the "Child Support Enforcement Amendments of 1983".

Respectfully yours,

MALE PARENTS FOR EQUAL RIGHTS
and
THE SECOND WIVES COALITION

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cc: All U. S. Senators
Delaware State "Blue Ribbon"
Domestic Relations Law Task Force
The White House
All Members of MPFER & 2nd Wives
Other Organizations on the "Blue List"

STATEMENT FROM ALANE G. MILLS
FOR SUBMISSION AND INCLUSION IN THE RECORD OF
TUESDAY, JANUARY 24, 1984
SENATE FINANCE COMMITTEE HEARING ON
CHILD SUPPORT ENFORCEMENT PROGRAM REFORM PROPOSALS

For far too long American legislators have condoned child neglect — even abandonment — in the form of delinquent child support payments. For far too long they have encouraged irresponsibility on the part of men and then dared to ask for votes and campaign assistance from women who are left to cope with the results of that irresponsibility.

It is unfortunate that the very phrase "delinquent child support" has conjured up images of nagging ex-wives and has been treated as a bar-room joke — far removed from the reality of bewildered children who are never quite full, never quite warm, and whose classmates make fun of their clothes...children who feel afraid and rejected because Mommy never smiles any more, and neither Daddy nor their Government seems to care about them...children who try in vain to comfort a mother who cries in frustration while not only caring for the children alone, but trying to support themselves and the children alone on a fraction of what a man with similar credentials would make. I'm not referring here to welfare cases...I'm talking about children who were at least born into the middle class!

The irony is that, despite the detailed financial statements required of the custodial parent, child support — when granted at all — bears little or no relationship to the cost of caring for a child. The courts of this country have learned to assume non-enforcement and therefore tend to base support on what is judged to be convenient for the father to pay: that is, what he will pay willingly. The custodial parent — usually the mother — must therefore cover a grossly disproportionate share of the expense...and usually with fewer resources.

A legislative-judicial system that serves as a "Hole-in-the-Wall Gang" for delinquent daddies commands little respect — either from the men it aids and abets in avoiding their responsibilities or from the women who learn that a court order for child support is actually nothing more than a mild request. If a single, working mother is forced to leave a child alone for several hours at a time in order to be able to feed that child, she is subject to charges of neglect and could be thrown into jail. And yet, where is the child's father and what is he providing for his offspring? Too many fathers are now hiding out in the loopholes and differentials in current child support enforcement laws.

How can any legislator be taken seriously in his expression of concern for the children of America as long as these loopholes and differentials exist? The proportions of the problem grow daily as the numbers of single mothers and their children increase. Surely a uniform and streamlined national child support enforcement program — for non-AFDC as well as AFDC cases — would be one of the most cost-efficient programs imaginable, since AFDC collections are returned to the government and the expenses of non-AFDC collections are billed to the custodial parent.

In 1977 my 9-year-old son and I had to run for our lives from an alcoholic and abusive professional man who held three college degrees, the last of which I personally helped him obtain. The alcoholism had surfaced during my pregnancy. It was my husband's decision to have a child at that time — preferably a son — since it was important to him to father a child and obtain his Ph.D. before his thirtieth birthday. Although I have a college degree and had worked prior to my difficult pregnancy and childbirth, we found that child care and the extra expenses would negate my earnings; and by then it was a full-time task to keep my well-paid husband employable.

During the years that followed I called the police on five different occasions. The first four times they simply did not come. The fifth time my son called and, on my instruction, deliberately failed to tell them that a husband and wife were involved. This time they came, but still would not remove my husband from the house even though I agreed to press charges.

Instead, they told him that they would drive by again in 45 minutes and — if all the lights were not off — then they would take him in. It sounded to me and to my son as if they were giving him 45 minutes to finish us off and split!

During those years I also put out nine fires in our home, caused by my husband's falling into an alcoholic stupor with a lit cigarette in his hand.

Several times we ran to friends who had said they would take us in. When faced with the reality they turned us away out of fear for their own homes and safety. What little money we had did not last long in motels, and all our relatives were in other states and did not want to believe what was happening.

In 1977 I finally found a friend who would hide us out...at least, after the first night. She and her husband were both large and athletic, and my husband had never known their last name or where they lived, and so I felt fairly safe. I paid for our keep by sewing for them. My son was still terrified, however, and so — although my parents were in another state and themselves separated — my father drove over, gave me what little money he could, and delivered my son to my mother's home, where he calmed down somewhat.

I maintained telephone contact with my husband to see whether we could work things out, but instead of going for professional help with his problem, he immediately closed the bank accounts, hoping to starve us into submission. I knew then that the marriage was beyond hope.

After several weeks I gained custody of the house, but found myself with no job, no car, no money. And so I wrote a resume, walked great distances to job interviews and finally was able to borrow enough money from relatives to buy a third-hand car and pay fees for a legal separation, since all the lawyers I contacted demanded payment up front. Because I had a small, old, two-bedroom frame house with little equity in it, my son and I were eligible for only $90 in food stamps — and for only one month.

My attorney at first negotiated a settlement that was extremely sympathetic to the husband and included immediate weekend visitation, which sent my child into hysteria — whereupon I refused to sign. My son returned home and I then took him to the area mental health clinic for evaluation and — if necessary — intervention. Since he was totally unable to deal with men at that point, we had to find a female therapist. When we finally got the child calmed down enough to evaluate him, he was found to be the brightest child they had ever tested and — due to his terror of his father — a hair's breadth away from being institutionalized for life. In addition, my son was teased mercilessly by his classmates for having to visit the "crazy house" and I had to negotiate for the time away from a new job that paid only one-fourth what my husband made.

The separation and settlement hearing took all day, but ended in a more rational visitation arrangement under the control of the mental health clinic and more reasonable alimony and child support amounts that still left him more from his take-home pay alone than I had from a full-time job, two occasional moonlighting jobs, alimony and child support together. And he was supporting only one while I was supporting two.

It was a struggle, but things went reasonably well for a while, with visitation gradually increasing to weekends, even though my ex-husband now lived in a neighboring state. Sometime during this period my ex-husband began living with a woman for approximately two years. He also had alcoholic beverages in his apartment during our son's visits, which was expressly against our Agreement. Although I could have, I did not challenge visitation on these grounds, since the woman was good to my son, my son was able to accept the arrangement, and although my ex-husband served his guests he apparently did not himself drink when our son was there.

But then, after having a staff counselor work with my ex-husband for several years, the company let him go and — instead of looking for a new job he spent

The first three months writing a 100-page abusive letter to his former employer. He kept his unemployment a secret from me at first, although he became more and more lax in his payments. Even his unemployment benefits equalled my pay checks and they continued for about a year-and-a-half, during a period when benefits were extended and then extended again. Support payments became small and irregular, but he seemed to be doing the best he could, and so I stepped up my moonlighting and my son and I cut any corners we could or simply did without. I did what I could to help my ex-husband find a new job, placing ads and relaying leads, but he seemed to expect employers to pursue *him*.

After a while my ex-husband stated that he simply did not feel like paying child support any more, and stopped doing so. The amount past due built up to several thousand dollars, but still attorneys did not want to bother with it, since my ex-husband was in another state and apparently still out of work. Even if I could have found one, it would have cost me more than I would have been likely to collect...and then my ex-husband would have had to agree to *voluntarily* come to court in *this* state. The child support enforcement office of the local Social Services Department said they could not help me because I was not on welfare.

Finally, since I at least knew my ex-husband's address, I went to the Clerk of Court's office on my own— on a vacation day from my job — and filed a reciprocal action. It took half the day to fill out the required, detailed financial statement. When I asked if it usually took that long, I was told that they didn't know. Usually Social Services filled them out with a lot of blanks and then the mother signed with an "X". They were of course referring to AFDC — or welfare — cases, wherein any money collected is returned to the government as reimbursement. Although I filed as a pauper, entitled to court-appointed representation in the other state, there was a fee for serving the reciprocal in the other state — charged to me, of course — and it took almost two months to get it placed on the court docket there. Meanwhile, the reciprocal (URESA) was not served on my ex-husband until a few days before the court date.

I expressed my intention of attending the family court hearing and asked that I be notified when the date was set. Repeatedly I was told that it was not necessary that I be there, although of course I had the right to, since an assistant district attorney would represent me in court. It was suggested by the Clerk of Court there that I submit a detailed written account of the marriage and subsequent divorce to aid the assistant district attorney in prosecuting my case. I was asked to include anything that would help in identifying my ex-husband: height, weight, coloring, car, cigarette brand, etc. I complied and indicated that I still planned to be present in court and wished to be notified of the date and location. I was not notified of the court date and learned of it only by phoning two more times as the estimated date neared.

I took an additional vacation day to drive to this other state to appear at the reciprocal hearing. When the hearing began, the only other people in the courtroom besides myself and the bailiff were my ex-husband, his attorney, the Clerk of Court and the judge...and the four of them kept exchanging nervous glances. When I inquired as to the name and whereabouts of the assistant district attorney I had been assured would be there to represent me, the judge stated that he had no idea who he was or where he was on that day, but we should nevertheless proceed with the hearing.

My ex-husband's attorney informed the judge that the defendant had, with great effort, finally landed a job in a cotton mill starting that very afternoon at a take-home pay of less than he had pulled on unemployment from his former job. The judge apparently took his word for it, since no documentation changed hands, and the level of support enforcement was based on what was judged to be convenient from this alleged amount.

Before dismissing us, the judge asked if I wished to make any statement. When I indicated that I felt I had expressed myself fully in the documentation sent earlier, the clerk acknowledged that it had been received and was in my file.

The judge, however, confessed that he had never so much as opened the folder laying in front of him.

As payment of at least some of the child support resumed, my ex-husband showed renewed interest in seeing our son — for a few months. Then the visits stopped and the checks started coming every other week. When one was three weeks late I tried to phone him to learn if there was a valid reason for the delay before I initiated further action and was told by his mother that he had moved and I would not be able to find him now. For months he denied moving, saying that that was his permanent address and that his mother was simply senile. He would claim that his mother was dying and being unfairly deprived of her grandson and then ask me to send our son on a bus to a station in this neighboring state, all the while refusing to give me an address or telephone number where they could be reached in case of a family emergency. Under the circumstances I felt it would be irresponsible on my part to comply, and withdrew to the minimum visitation established by the mental health clinic. I invited my ex-husband to bring his mother and any other relatives along for this visitation, but he was not interested in seeing his son except on his own terms.

As a test, we pop-called on my former mother-in-law one Sunday and found her in reasonably good health. Her alcoholic brother was in residence, but not her son. He was far enough away, in fact, that she could not even call him to come over for the day. We had a pleasant visit, during which she mentioned that my ex was planning to purchase a computer. It seemed unlikely to me that he was still earning minimum wage in a cotton mill.

By this time the amount of past due child support had grown to approximately $10,000 — a substantial sum for us to have done without. I had consulted an attorney and learned that I would have to locate my ex-husband — at my expense — before any action could be taken, and that I could not write the amount off as a bad debt on my taxes because it did not represent money that I had paid to my ex-husband. I contacted a private investigator and learned that the going rate was $20 an hour plus expenses. The child support enforcement office at the local Social Services Department informed me that the parent locator service could eventually learn where he was employed, but not where he lived — for a fee...from me, of course. The IRS was of absolutely no help in learning whether or how I could intercept an income tax refund.

The child support enforcement office of the state I reside in told me they weren't "into" federal refunds yet, and that they could not intercept his state income tax refund since he was no longer employed in this state. The child support enforcement office of the state where my ex-husband resides informed me that they intercept only federal — not state — income tax refunds, but only for their own cases. An assistant attorney general of that state recommended that I go to my local Social Services Department and pay a fee to have my entire case transferred to his state. I inquired whether that state would not "forgive" the entire past-due amount and require that I regularly bring the child to that state — at my expense — for visitation, which would then be re-established. He admitted that it was true and agreed that such action would benefit only my ex-husband. I commented that to initiate such action would be insane on my part. He quietly agreed. I declined his offer of "help".

Acting on a hunch, I played detective myself and finally located my ex-husband. I learned that almost immediately after the family court hearing he had returned to his profession...as an employee of the state...and had been so employed for at least two years, during which time he continued paying support as if he were earning minimum wage. From my prior experience as the wife of such a professional, I know that it is highly likely that he appeared in family court with a signed contract in hand.

I then attempted to re-open the original reciprocal action to ask for an increased level of enforcement — as I had been told I could by the family court judge in my ex-husband's state. A month after the case was supposedly put on the court docket , I called to learn the date of the hearing and learned instead that the case had been pulled off the docket because my ex-husband had been found not to be in arrears in that state according to the level of enforcement decreed in the original reciprocal hearing. That had never been the issue!

Having lost a precious month due to this run-around and faced with changes in procedures in both states, I then set about learning what could be done under currently existing laws. During this process, I contacted the district attorney's offices in both counties, my local Social Services office, the attorney general's offices in both states, the child support offices for both states, the regional office of child support enforcement, and the federal office of child support enforcement. The regional office staff was most helpful in explaining procedures to me, which I had to turn around and explain to the local child support enforcement office staff. In the process I learned that I am the first woman ever to file a URESA action under Title IV-D, non-AFDC, in the home county of the spouse of this bill's key sponsor. It has become painfully obvious that I have also filed one of the first — if not in fact the first — such case in the state. It is a dubious honor that I would gladly forego in favor of expedience. It has taken four months from initial contact with the local child support enforcement office to get the URESA filed in the Clerk of Court's office in my home county; and because it is still a long way from being served on my ex-husband, I cannot freely divulge names of locations and individuals that would otherwise be included in this documentation.

To my great chagrin, the filing of this case was published as part of the open court records, a breach of confidentiality that further jeopardizes the successful serving of a subpoena on my ex-husband. I can only hope that it was overlooked by other people.

The preparation of this URESA has been a learning experience for all concerned — unfortunately at great expense to me, both time-wise and money-wise In addition to all the vacation time and telephone bills — and in addition to my taxes — I am being charged by the hour for the clerk's time and the departmental attorney's time at the local child support enforcement office.

By the way, my ex-husband has had the right all along — and been aware of his right — to return to court where the support order was initially decreed and ask for a reduction any time he could prove that his finances had declined enough to warrant one. He has never done so.

The whole situation is patently unfair — and grossly inefficient. It has been a tremendous hassle that is far from over. I have gained a wide reputation for "perseverance" in battling legal roadblocks and bureaucracies where I should be a number passing through the hands of an efficient administrator.

I have been spurred on, however, by my concern for a child, once labeled "emotionally handicapped", who is now a teen-aged honor student, handsome, kind, brilliant, and well-adjusted. He deserves better than the deprivation caused by his father's willful abandonment of him — abandonment that has been aided and abetted by current laws and procedures. There must be a better way!...and part of this better way is the proposed Senate Bill S.1691. It is far from a total answer to the problem, but it is a large step in the right direction.

It was my intention to edit this statement in the interest of brevity. However, time does not permit this. A final roadblock was thrown in my path by the most ironic source of all — the office of one of the bill's key sponsors. A press release referring to the bill had been forwarded to me by my state's child support enforcement office, since mine is a landmark case in a significant state. I agreed to review the bill and submit a statement, but I needed a copy of the bill and was uncertain where to obtain one. I therefore telephoned the Senator's office and was told that one would be put in the mail that day. That was the same message given a week later, and it was not until a week after that — on the day of the hearings — that I was at last informed that the Senator's office staff was not allowed to send out such documents, and that I would have to obtain a copy from the Senate Documents Office. I telephoned that office and was informed that my request would have to be made in writing. I complied and now have a copy of Senate Bill S.1691 in hand — but time is short.

I therefore apologize for the length of time it has taken to read this statement. It is, however, nothing compared to the time it takes to even attempt to enforce child support under existing laws. I stand ready as a custodial parent to accept your collective apology, in the form of passage of this bill, for the injustice done to my child — and to so many other children — by your delay in passing a bill so badly needed.

Alane G. Mills

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TESTIMONY

Submitted To: Subcommittee on Social Security and Income Maintenance Programs

Hearing Date: September 15, 1983

Hearing Subject: Child Support Enforcement Program

Testimony Submitted By: Bonnie L. Becker, Director
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Submitted on Behalf of: Department of Public Welfare
State of Minnesota

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, MY NAME IS BONNIE BECKER, AND I AM THE DIRECTOR OF THE MINNESOTA OFFICE OF CHILD SUPPORT ENFORCEMENT. I AM TESTIFYING HERE TODAY ON BEHALF OF THAT OFFICE AND THE DEPARTMENT OF PUBLIC WELFARE, STATE OF MINNESOTA.

WE APPLAUD THE INTEREST AND CONCERN SHOWN BY CONGRESS IN THE IMPROVEMENT OF THE CHILD SUPPORT ENFORCEMENT PROGRAM, A PROGRAM OF DIRECT AND SUBSTANTIVE BENEFIT TO SINGLE PARENT FAMILIES. MY TESTIMONY WILL FOCUS ON MINNESOTA'S EXPERIENCES WITH MANDATED LAWS, THE ISSUES OF FUNDING AND FEES FOR SERVICES ON NON-WELFARE CASES.

IN THE EARLY 1970'S THE ROLE OF CHILD SUPPORT COLLECTIONS WAS VIEWED AS COUNSELLING, A TYPE OF SOCIAL WORK. WE SPENT HOURS TALKING WITH NON-SUPPORTING PARENTS TRYING TO CONVINCE THEM TO SUPPORT THEIR CHILDREN. WE WERE NOT VERY SUCCESSFUL - NEITHER IN CREATING AN ATTITUDE CHANGE NOR IN SECURING CHILD SUPPORT PAYMENTS. WE ESTIMATE THAT ANNUAL COLLECTIONS IN MINNESOTA AT THAT TIME TOTALED $3 - 5 MILLION.

AN EQUAL OPPORTUNITY EMPLOYER

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THE IMPLEMENTATION OF THE TITLE IV-D CHILD SUPPORT ENFORCEMENT PROGRAM IN AUGUST, 1975, RESULTED IN MORE THAN TRIPLING COLLECTIONS IN 1977. THIS IS PARTICULARLY SIGNIFICANT BECAUSE IT WAS FEDERAL LEADERSHIP WITH PROGRESSIVE LEGISLATION AT THAT TIME THAT CAUSED MINNESOTA AND OTHER STATES TO INTENSIFY THEIR CHILD SUPPORT ENFORCEMENT EFFORTS. THE PROGRESS WAS DIRECTLY LINKED TO A FEDERAL MANDATE IN A WELL THOUGHT OUT BILL BY SENATOR RUSSELL LONG.

THE CHILD SUPPORT ENFORCEMENT PROGRAM HAS BEEN IN EFFECT NOW FOR EIGHT YEARS. MANY STATES HAVE MADE SIGNIFICANT PROGRESS IN THE PASSAGE OF STRONG AND EFFECTIVE CHILD SUPPORT ENFORCEMENT STATUTES. MANY STATES HAVE NOT - AND ARE NOT LIKELY TO IN THE NEAR FUTURE UNLESS LEADERSHIP IS AGAIN SHOWN BY CONGRESS IN THIS AREA. IF WE ARE TRULY SERIOUS ABOUT ENFORCING THE PAYMENT OF CHILD SUPPORT, IT HAS BEEN MINNESOTA'S EXPERIENCE THAT THE MANDATORY WAGE WITHHOLDING OF CHILD SUPPORT IS ESSENTIAL AS THIS MEASURE HAS PROVEN TO BE ONE OF THE MOST EFFECTIVE MEANS TO ENSURE THE COLLECTIONS OF CURRENT CHILD SUPPORT. MINNESOTA HAS HAD WAGE WITHHOLDING STATUTES FOR CHILD SUPPORT SINCE 1971. IN 1980, OUR LEGISLATURE AMENDED OUR WAGE WITHHOLDING STATUTES TO MAKE THEM MORE EFFECTIVE AND USEFUL. THE STATUTES WERE BROADENED FROM WAGES TO DEDUCTIONS OF CHILD SUPPORT FROM INCOME, REGARDLESS OF SOURCE. ANY CHILD SUPPORT ORDER ISSUED BY MINNESOTA COURTS MUST CONTAIN INCOME WITHHOLDING PROVISIONS. IF THERE IS A 30 DAY DEFAULT IN PAYMENT, THE CHILD SUPPORT AGENCY GOES DIRECTLY TO THE DELINQUENT PARENT'S EMPLOYER OR OTHER PAYOR OF FUNDS AND THE ORDER IS PUT INTO EFFECT. THE ORDER FOLLOWS THE DELINQUENT PARENT FROM JOB TO JOB WITHOUT THE NEED TO RETURN TO COURT. THESE PROCEDURES SAVE THE CUSTODIAL PARENT AND THE TAXPAYOR BOTH TIME AND MONEY.

DURING THE PERIOD JANUARY THROUGH JULY, 1983 IN HENNEPIN COUNTY (MINNEAPOLIS) MINNESOTA, THE MONTHLY AVERAGE CHILD SUPPORT COLLECTED ON CASES WITH INCOME WITHHOLDING ORDERS WAS 66% HIGHER THAN AVERAGE COLLECTIONS MADE ON CASES WITHOUT INCOME WITHHOLDING ORDERS. THERE IS JUST NO QUESTION THAT WAGE WITHHOLDING STATUTES PROVIDE AN EFFICIENT MEANS TO COLLECT CHILD SUPPORT. OUR MINNESOTA COLLECTIONS HAVE ALMOST TRIPLED IN THE PAST FIVE YEARS TO $46.5 MILLION IN FISCAL YEAR 1983. SUBSTANTIAL INCREASES WERE MADE SINCE THE PASSAGE OF THE AMENDMENTS WHICH STRENGTHEN OUR INCOME WITHHOLDING STATUTES.

MINNESOTA HAS HAD A STATE TAX REFUND INTERCEPTION PROGRAM IN OPERATION FOR THREE YEARS. THIS PROGRAM HAS ALLOWED THE CHILD SUPPORT AGENCIES TO INTERCEPT THE STATE

INCOME AND/OR PROPERTY TAX REFUNDS OF ANY PERSON WHOSE FAMILY IS ON WELFARE AND WHO HAS BECOME DELINQUENT IN HIS/HER CHILD SUPPORT PAYMENTS. OUR STATUTE IS GENERAL IN NATURE IN THAT ANY DEBT OWED TO THE STATE MEETING CERTAIN REQUIREMENTS CAN BE SUBMITTED FOR TAX OFFSET, INCLUDING STUDENT LOANS. OUR STATE TAX INTERCEPT PROGRAM HAS HAD STRONG PUBLIC SUPPORT IN MINNESOTA BECAUSE OF THE BELIEF THAT PARENTS, AND NOT THE TAXPAYORS, ARE RESPONSIBLE FOR THE UPKEEP OF THEIR CHILDREN. STATE TAX INTERCEPT PROGRAMS PROVIDE AN EFFICIENT AND VERY COST EFFECTIVE MEANS TO RECOVER CHILD SUPPORT ARREARAGES. OUR PROGRAM HAS SAVED MINNESOTA TAXPAYORS NEARLY $3 MILLION IN 1982, AND COLLECTIONS OF MORE THAN $3 MILLION ARE EXPECTED THIS YEAR. BECAUSE OF THE SUCCESS OF OUR INTERCEPT PROGRAM ON PUBLIC ASSISTANCE CASES, ADDITIONAL STATUTES WERE PASSED IN 1982 WHICH EXPANDED THE EFFORT TO INCLUDE DELINQUENT CHILD SUPPORT OWED TO FAMILIES NOT ON WELFARE.

MINNESOTA HAS UTILIZED QUASI-JUDICIAL PROCESS WITH FAMILY COURT REFEREES HEARING CHILD SUPPORT ENFORCEMENT MATTERS IN OUR LARGEST JURISDICTIONS. RECENT AMENDMENTS TO OUR STATUTES PROVIDE THAT EACH COUNTY MAY EMPLOY REFEREES FOR THIS PURPOSE. WE HAVE FOUND THIS USE OF REFEREES HELPFUL BOTH IN KEEPING COSTS DOWN AND IN SPEEDING UP CHILD SUPPORT ENFORCEMENT ACTIONS.

WITHIN RECENT LEGISLATIVE SESSIONS IN MINNESOTA, STATUTES HAVE BEEN AMENDED TO PROVIDE FOR THE USE OF THE SAME REMEDIES ON WELFARE AND NON-WELFARE CHILD SUPPORT CASES. IF STATES ARE TRULY SERIOUS ABOUT ENFORCING THE PAYMENT OF CHILD SUPPORT FOR ALL FAMILIES, STRONG ENFORCEMENT MEASURES MUST BE AVAILABLE TO FAMILIES NOT ON WELFARE AS WELL AS THOSE WHO ARE RECEIVING PUBLIC ASSISTANCE. IT HAS BEEN OUR EXPERIENCE IN MINNESOTA THAT IN MANY SITUATIONS, THE COLLECTION OF CHILD SUPPORT AND MODEST INCOME FROM THE CUSTODIAL PARENT'S EMPLOYMENT ARE ENOUGH TO KEEP A FAMILY FROM HAVING TO RELY ON WELFARE ASSISTANCE. MANY TIMES ONE SMALL FINANCIAL CRISIS IS THE DECIDING FACTOR ON WHETHER OR NOT A FAMILY APPLIES FOR WELFARE. IT HAS BEEN OUR EXPERIENCE THAT THE PERSONS MAKING USE OF THE NON-WELFARE CHILD SUPPORT ENFORCEMENT SERVICES ARE LARGELY LOW INCOME, FEMALE HEADED HOUSEHOLDS. THE MANDATED APPLICATION FEE WHICH HAS BEEN PROPOSED BY THE ADMINISTRATION MAY ACT AS A DETERRENT TO USE OF THE ENFORCEMENT SERVICES BY THOSE FAMILIES WHO MOST NEED THEM. BY OFFERING STATES THE OPPORTUNITY TO PAY THE NON-WELFARE APPLICATION FEE INSTEAD OF CHARGING IT TO THE APPLICANT, AN INCREASE IN LOCAL COSTS WILL OCCUR WHICH WE BELIEVE WILL RESULT IN A REDUCTION OF SERVICES TO THESE FAMILIES AT LOCAL LEVEL. WE BELIEVE THAT THE COLLECTION OF CHILD SUPPORT ON NON-WELFARE CASES IS COST AVOIDANCE IN THAT WE ARE ABLE TO PREVENT THE APPLICATIONS OF THESE FAMILIES FOR PUBLIC ASSISTANCE BECAUSE OF THE CHILD SUPPORT THAT WE COLLECT.

THE ADMINISTRATION HAS PROPOSED THAT A FEE BE CHARGED TO NON-WELFARE OBLIGORS WITH THE RATE BEING FROM THREE TO TEN PERCENT OF THE COURT ORDERED AMOUNT AT THE CHOICE OF THE STATE. OUR MINNESOTA SERVICE FEE STATUTE IS ASSESSED TO OBLIGORS ON BOTH WELFARE AND NON-WELFARE CASES WHO ARE NOT CURRENT IN THE PAYMENT OF THE CHILD SUPPORT AND LIMITS THE FEE TO TEN PERCENT OF THE MONTHLY COURT ORDERED CHILD SUPPORT. IT IS OUR RECOMMENDATION THAT IF FEES ARE TO BE ASSESSED ON THE OBLIGOR THAT THESE FEES BE ASSESSED ON BOTH WELFARE AND NON-WELFARE CASES. COLLECTIONS FROM THESE FEES CAN, THEREFORE, BE USED TO HELP PAY FOR THE COST OF MAINTAINING NON-WELFARE CHILD SUPPORT ENFORCEMENT SERVICES. IT MUST BE CAUTIONED, HOWEVER, THAT REMEDIES BE AVAILABLE TO STATES TO SECURE PAYMENT OF THESE FEES. IF AN OBLIGOR IS DELINQUENT IN THE PAYMENT OF HIS OR HER CHILD SUPPORT OBLIGATION, IT IS UNLIKELY THAT HE/SHE WILL READILY PAY A SERVICE FEE.

OUR STATE HAS SOME VERY DEEP CONCERNS ABOUT THE ADMINISTRATION'S PROPOSAL TO REDUCE FEDERAL FINANCIAL PARTICIPATION FROM 70% to 60%. IT IS OUR STRONG BELIEF THAT DECREASED RESOURCES WILL LIKELY CAUSE DECREASED LOCAL EFFORTS IN THE CHILD SUPPORT ENFORCEMENT PROGRAM AT THE VERY TIME WHEN INCREASED EFFORTS ARE ESSENTIAL TO ENSURE PARENTAL SUPPORT. WITHIN THE PAST TWO YEARS IN MINNESOTA, OUR CHILD SUPPORT ENFORCEMENT CASELOAD ON AFDC CASES HAS NOT INCREASED. IN FACT WE HAVE SEEN A SLIGHT DECREASE IN THE NUMBER OF CASES WE SERVICE. HOWEVER, THE DEMAND FOR NON-WELFARE CHILD SUPPORT ENFORCEMENT SERVICES IN MINNESOTA INCREASED BY 56% IN THE PAST TWO YEAR PERIOD. WE FULLY EXPECT THAT THIS TREND WILL CONTINUE AS WE BECOME MORE SUCCESSFUL IN SECURING CHILD SUPPORT PAYMENTS AND AS MEDIA ATTENTION CONTINUES TO BE FOCUSED ON THIS PROGRAM. LOCAL JURISDICTIONS ARE NOT GOING TO BE ABLE TO CONSISTENTLY MEET THE INCREASING DEMAND FOR SERVICES WITH EVEN FURTHER DECREASED RESOUCES. WE URGE CONGRESS TO RETAIN THE 70% FEDERAL FINANCIAL PARTICIPATION IN THIS PROGRAM AND REVIEW THIS ISSUE AT SUCH TIME AS THE IMPACT OF THE MANDATED LAWS TO INCREASE COLLECTIONS CAN BE MEASURED.

MINNESOTA SUPPORTS THE CONCEPT OF PERFORMANCE BONUSES. INCENTIVES PAID IN THE CHILD SUPPORT ENFORCEMENT PROGRAM SHOULD BE TAILORED SUCH THAT THEY ARE EARNED BY THE STATES THAT ARE MOST EFFECTIVE AND EFFICIENT IN PROGRAM ADMINISTRATION. WE BELIEVE THAT THE FOLLOWING COMPONENTS MUST BE TAKEN INTO ACCOUNT IN THE DEVELOPMENT OF A PERFORMANCE BONUS STRATEGY:

1. THE SIZE OR AMOUNT OF THE INCENTIVE POOL SHOULD NOT BE REDUCED OR CAPPED BECAUSE TO DO SO WOULD CREATE A DISINCENTIVE FOR DELIVERY OF NEEDED SERVICES.

2. THE INCENTIVE SHOULD TARGET INCREASED EFFORTS ON NON-WELFARE CASES, PATERNITY CASES AND INTERSTATE CASES. THIS IS NECESSARY BECAUSE OF THE RELATIVE COMPLEXITY OF PROVIDING SERVICE TO PATERNITY AND INTERSTATE CASES, AND THE LACK OF EMPHASIS SHOWN IN PAST YEARS ON NON-WELFARE CASES BY SOME STATES.

3. THE MANNER OF DETERMINING WHICH STATES ARE TO RECEIVE PERFORMANCE BONUSES SHOULD BE RELATIVELY SIMPLE - BOTH TO THE STATE AND TO THE FEDERAL OFFICE OF CHILD SUPPORT ENFORCEMENT. THE METHOD OF INCENTIVE DETERMINATION SHOULD NOT BE SO COMPLEX THAT ONLY THE MOST SOPHISTICATED ELECTRONIC DATA PROCESSING CAPABILITIES ARE REQUIRED TO TRACK AND MAINTAIN STATISTICS FOR INCENTIVE DETERMINATION PURPOSES. COMPLEX RECORD KEEPING REQUIREMENTS AND TRACKING CAPABILITIES WOULD LIKELY OUTWEIGH THE POTENTIAL BENEFIT RECEIVED FROM THE INCENTIVES.

4. SHOULD ADDITIONAL STATISTICAL DETAIL BE REQUIRED FOR STATES TO TRACK CLAIM INCENTIVES, IT IS ESSENTIAL THAT THE FEDERAL GOVERNMENT PROVIDE GRANTS TO THE STATES TO DEVELOP INCREASED EDP CAPABILITY AND THE TIME NECESSARY TO PUT THESE SYSTEMS IN PLACE.

WE SUSPECT THAT A COMBINATION OF 75% FEDERAL FINANCIAL PARTICIPATION WITH SIMPLY CONSTRUCTED PERFORMANCE MEASURES WHERE PERFORMANCE INCENTIVES MAY BE CHANNELED TO EFFECTIVE STATES WITHOUT ELABORATE TRACKING REQUIREMENTS MAY PROVE TO BE THE MOST BENEFICIAL SYSTEM FOR CHILD SUPPORT ENFORCEMENT FUNDING TO ALL LEVELS OF GOVERNMENT. ON BEHALF OF THE STATE OF MINNESOTA, DEPARTMENT OF PUBLIC WELFARE WE SUBMIT THE FOLLOWING RECOMMENDATIONS FOR IMPROVEMENT OF THE CHILD SUPPORT ENFORCEMENT PROGRAM.

* WE RECOMMEND THAT CONGRESS AUTHORIZE ALL STATES TO ADOPT MANDATORY WAGE WITHHOLDING STATUTES, STATE TAX REFUND INTERCEPTION STATUTES AND THE USE OF ADMINISTRATIVE OR QUASI-JUDICIAL PROCESSES FOR THE ESTABLISHMENT AND ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS.

- WE RECOMMEND THAT THESE REMEDIES AND PROCESSES BE AVAILABLE TO BOTH PUBLIC ASSISTANCE AND NON-PUBLIC ASSISTANCE CASES.

- WE RECOMMEND THAT STATES BE AUTHORIZED TO SUBMIT DELINQUENCIES ON NON-WELFARE CASES FOR FEDERAL TAX REFUND INTERCEPTION WHERE ARREARAGES HAVE BEEN CONFIRMED BY COURT ORDER AND/OR CASES SUBMITTED HAVE BEEN SERVICED BY THE CHILD SUPPORT ENFORCEMENT AGENCY SO ACCURATE ARREARAGE AMOUNTS ARE AVAILABLE.

- WE RECOMMEND THAT SERVICE FEES ON NON-WELFARE CASES BE LEFT TO THE DISCRETION OF THE STATES, BUT THAT IN NO INSTANCE APPLICATION FEES BE CHARGED TO THOSE PERSONS LEAST ABLE TO AFFORD THEM, SINGLE PARENTS WHO ARE NOT RECEIVING CHILD SUPPORT.

- WE RECOMMEND THAT CONGRESS MAINTAIN THE PRESENT 70% FEDERAL FINANCIAL PARTICIPATION IN THIS PROGRAM WITH A REVIEW OF THE IMPACT OF THE MANDATORY STATUTES ON ALL STATES' PERFORMANCE.

THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY.

[illegible] and Education Fund
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STATEMENT

of the

NATIONAL ORGANIZATION FOR WOMEN
LEGAL DEFENSE AND EDUCATION FUND

and the

NATIONAL CENTER ON WOMEN AND FAMILY LAW

Before the

SUBCOMMITTEE ON SELECT EDUCATION

COMMITTEE ON EDUCATION AND LABOR
U.S. House of Representatives

on

NON-PAYMENT OF CHILD SUPPORT

Judith I. Avner
Staff Attorney, NOW LDEF
September 12, 1983
New York City

Good morning. My name is Judith Avner and I am an attorney with the National Organization for Women Legal Defense and Education Fund. I am pleased to appear before you this morning on behalf of the Fund and the National Center on Women and Family Law to discuss the very serious problem of enforcement of child support orders. The NOW Legal Defense and Education Fund is a non-profit tax exempt civil rights organization dedicated to challenging sex discrimination and securing equal rights for women and men. Formed in 1970 by leaders of the National Organization for Women--a national membership organization of more than 200,000 women and men in over 725 chapters throughout the country--to provide educational and litigating resources for the women's movement, the LDEF has long been concerned with the deteriorating financial plight of women, especially women and their children after divorce.

The National Center on Women and Family Law, Inc., is a not-for-profit organization incorporated under the laws of New York State for the purpose of litigating and providing technical assistance on behalf of poor women in the area of family law. NCOWFL is funded by the Legal Services Corporation to serve as a national support center on poor women's issues and family law issues. NCOWFL provides "back up" support to local legal services programs and advocates in every state. NCOWFL sponsors the National Child Support Enforcement Advocacy Network, comprising over 70 community groups around the country working towards the improvement of child support enforcement. In its daily work with legal services programs around the country, and through its sponsorship of the National Child Support Enforcement Advocacy Network, NCOWFL is painfully aware of the poverty of women and children caused by the failure of fathers to meet their support obligations and the failure of our judicial system to treat these obligations seriously.

I am representing these groups because of our overriding concern for the growing poverty among women and children and the impact of divorce on their economic status. The current child support system, with its low awards and inadequate enforcement procedures and remedies, significantly contributes to the massive shift of woman-headed households into poverty. Every day our organizations receive telephone calls and letters from women across the country describing a multitude of serious problems involving inadequate child support awards and enforcement and begging us for help. But we can provide help in only a limited number of cases. The systemic problems we cannot solve alone.

Congressman Biaggi, we applaud your interest in this critically important issue and your concern for the plight of women and children whose economic survival is inextricably intertwined with an award of adequate child support and enforcement of the order. We gladly join in your inquiry and commitment to remedying this national disgrace and assuring an adequate standard of living for divorced women and their children.

We speak at a time when the National Advisory Council on Economic Opportunity has declared that the "feminization of poverty has become one of the most compelling social facts of the decade."[1] The Advisory Council has estimated that if current trends continue, the poverty population by the year 2000--only 17 years from now--will be comprised of women and children.[2]

The relationship between divorce and poverty among women and children has been made alarmingly clear--one year after divorce, a woman's standard of living plummets by 73% while a man's standard of living actually increases by 42%.[3] The deteriorated economic position of divorced women has a profound and direct impact on their children. From 1970 to 1981, the number of divorces in this country doubled.[4] Over the same eleven year period, the number of children living with one parent increased by 54%, to a total of 12.6 million children, or one child in five.[5] In 1978, 7.1 million women in this country were single mothers living with their children;[6] more than 90% of all children who live with one parent live with their mother.[7] (For this reason, I will refer to custodial parents as "mothers.") And the vast majority of these children have a living non-custodial parent from whom they are entitled to receive support payments. Yet, the appalling truth is that 41% of all custodial mothers are awarded no child support from the father.[8]

But an award of child support is only a small road block in the seemingly inevitable downward spiral to poverty--when awarded, the amount is inevitably inadequate and rarely collected. In 1978, for example, only one-half of those mothers actually awarded child support received the full amount awarded.[9] Among all women who received some payment, the mean annual amount received was $1,800 ($150 monthly).[10] Child support represented roughly one-fifth of the mean total annual income of $8,944.[11] Needless to say, the burden of filling the gap between the support payment and the necessary cost of meeting the child's needs falls on the mother. This imposition is exacerbated by persistent sex-discrimination in the paid workforce, which reduces the mother's earning power, especially as compared with that of the absent father.

Contrary to popular belief, mothers receiving public assistance contribute more to the support of their children from their own employment earnings than do absent fathers. In Wisconsin, for example, mothers receiving Aid to Families of Dependent Children (AFDC) who were also employed in the paid workforce contributed $83.2 million per year to the support of their children, while all the fathers of these children contributed only $28 million per year.[12]

Also contrary to popular belief, there is little relationship between the father's ability to pay child support and either the amount of the award, or the extent of compliance with the order. For example, a study in Denver, Colorado revealed that 2/3 of the fathers were ordered to pay less support for their child(ren) than they reported spending on monthly car payments.[13] A Cleveland, Ohio study found that most ex-husbands retain 80% of their former personal income after divorce, even after all alimony and child support were paid.[14] And a California study of couples divorced after at least eighteen years found that the ex-husband and his new household had more than double the disposable income per person than did the ex-wife and her household, even assuming all support payments were made and taking into account the ex-husbands' new dependents.[15]

Federal involvement in the support enforcement area has resulted in some progress. In fiscal year 1980, for example, 642,000 absent parents were located, support obligations were established in more than 373,000 cases, paternity was ascertained in more than 144,000 cases, and almost $1.5 billion was collected, of which $875 million was in non-AFDC collections and $603 million was in AFDC collections.[16] However, there is clearly room for improvement. We hope that these and similar hearings, and the recent public attention focused on this critical problem, will result in much needed change.

The various bills pending in Congress propose a range of reforms. We will submit detailed comments on these proposals, including the financial and fee provisions, in the next few weeks. For the moment, however, our comments must be general in nature, describing the types of reforms our organizations believe are necessary to reverse the current trend.

- Standards for Setting Award

Even the most effective enforcement of support orders will not remedy the more basic problem of inadequate awards in the first instance. Meaningful standards for determining support awards are a prerequisite to meaningful reform. The standards that are currently in use for the amount of support to be awarded disadvantage the custodial mother by using as a starting point the minimal amount on which she and the children can subsist. Existing standards also fail to take appropriate account of the non-monetary child rearing and nurturing contributions provided by the custodial mother.

In almost all jurisdictions, the statutes typically provide simply that the judge shall award such support as is "reasonable and just." When statutes do list criteria, they often are general and amorphous. Courts have arbitrary and diverse conceptions of each of these vague standards and, in any event, they do not consistently adhere to even these general factors.[17] Our experience from reviewing actual amounts of support awarded has made clear that courts rarely have a realistic idea of the actual cost of meeting even the minimal needs of a child today and in the future. This view has been corroborated by NOW LDEF's National Judicial Education Project, which, in educating and training judges about the effect of their support awards, has uncovered similar misperceptions.

Almost all courts employ some kind of cost-sharing system which computes the costs of rearing the children. After establishing these costs, the court normally proceeds to allocate responsibility for these expenses between the parents by using a simple cost-division system, basing awards on information supplied by parents about each of their net earnings.[18] The judge will usually use this information to calculate a figure said to represent a reasonable share of child support expenses for the father to pay. Unofficially, however, many judges have adopted a "cap" on child support amounts, above which they almost never go.[19]

In jurisdictions in which tables have been adopted setting specific support amounts according to the father's income, the rationale for the suggested amounts is presumably that a certain percentage of the father's income should go to child support. Although unstated, such a system necessarily assumes an underlying fixed cost for care of the child or children. Under this system, neither the amount of costs actually needed to raise the children nor the extent of the burden placed on the custodial mother is considered.

Certainly there is no universal standard for the "cost" of rearing a child. Cost cannot be determined except by reference to the economic status of the parents. A preferable alternative to the "cost-sharing" approach is an income-sharing or equalization principle, which seeks to equalize the financial burden, so that each family member experiences roughly the same proportional change in living standards, taking into account the financial resources at the parents' disposal.[20] This would assure meeting the children's needs without imposing a disproportionate financial burden on the custodial mother.

- Automatic Federal Wage Attachment or Withholding System

Wage assignment has been one of the most effective state law enforcement tools because control is taken out of the obligor's hands. However, if the obligor lives or works in another state the problem is more complicated. A federal enforcement statute could remedy this problem. Under such a provision the state would make the order,and then send it to Washington, D.C. with the obligor's Social Security number. The statute would impose on obligors an affirmative duty to make the attachment known to their employers, insurance, pension, unemployment and workers compensation payors , an obligation that would carry over from job to job.

A similar suggestion is a federal income withholding system that would follow the parent from job to job. This would require the employer to deduct support payments from the obligor's wages, as with tax deductions, and then send the amount to the court.[21] This procedure would occur automatically without having to wait until there is a violation of a support order. An experimental program along these lines is about to be instituted in ten counties in Wisconsin.[22] These proposals represent a potential solution to the problem of interstate enforcement and to delays and irregularities in payment. In addition, similar procedures must be developed for withholding or attaching funds derived from income other than wages.

- Automatic Cost of Living Adjustments

For most families, because initially low support awards are never adjusted throughout the child's minority, they utterly fail to keep pace with inflation and the escalating costs of meeting the increasing needs of growing children. Inflation quickly erodes the purchasing power of the original dollar amount, making the support award grossly inadequate to meet the basic and and increasing needs of children. Moreover, the fixed award does not reflect increases in the payor's income, thereby making his support obligations an even smaller percentage of his earnings.

The use of automatic cost-of-living increase provisions (known as "COLA" or "escalation" clauses) in child support awards would protect the awards from the erosive effect of inflation, as well as meet the needs of raising older children. Without an automatic escalation clause, the burden is on the child or custodial mother on behalf of the child to return to court and petition for a modification of the support award based on "changed circumstances." The choice for the mother is clear--either she absorbs the impact of the deteriorating purchasing power of the initial award, or she incurs substantial delay and the legal expenses of seeking upward modification, with the attendant risks of a contested custody battle and loss of custody. An automatic cost of living clause does not infringe upon the rights of either parent to petition the court for modification upon a showing of changed circumstances. It merely shifts the burden from the custodial parent to the noncustodial parent to prove his inability to pay the increases when due.

Similar cost-of-living provisions are incorporated in labor contracts, leases and private sector agreements as an efficient means of mitigating the effects of inflation and assuring economic stability of the parties. Automatic escalation clauses in child support orders would help to assure some economic stability for women and children by objectively and realistically measuring their ongoing and increasing needs.

° Clearinghouse

Under the prevailing child support enforcement schemes, a father ordered to pay child support is typically told to mail the mother a check every pay period; keeping track of the payments, (or lack therof) is generally the mother's responsibility. The mother also has the burden of instituting enforcement proceedings. It will not be worthwhile for the mother to sue, however, until the amount of support owed her exceeds the attorneys' fee she will have to pay to bring suit. By that time, her financial situation and that of her children is almost always in turmoil. If the case does get to court, judges in many states typically adjust the amount of arrearage retroactively, a remedy virtually unheard of in other contract enforcement actions. The system thus provides a powerful incentive for fathers to ignore the court order.

For this reason we strongly support imposition of a requirement that each state create a clearinghouse to collect and disburse support payments, monitor the timeliness of payments and trigger enforcement procedures upon nonpayment in whole or in part. The clearinghouse-type procedure has been used successfully in several states. But to be fully effective, the establishment of a child support clearinghouse must be mandatory for every state, and combine enforcement with the collection and dissemination of information.

° Administrative Procedures

While we support the concept of a quasi-judicial or referee system for the enforcement of child support orders, we oppose any requirements that an administrative or quasi-judicial mechanism be used for the establishment of child support levels or for modification of support. In view of inadequate guidelines, this approach is particularly inappropriate. But even if there were adequate guidelines, there will remain additional questions to be litigated in individual cases--for example, extraordinary medical or school expenses for a child or parent, or heavy financial obligations which reduce the resources available for child support. These are appropriate considerations for judicial resolution in formulating child support awards. While we are sympathetic to the need for rapid adjudication, we strongly believe that this procedure has no place in determination of child support awards. Indeed, all too often we see cases involving women and children relegated to a less scrutinized decision-making process than other cases by our legal system.

- Tax Intercept

We support the concept of interception of tax refunds--federal and state--for satisfaction of past due child support obligations. We strongly support its use in non-AFDC cases as well as AFDC cases. There is simply no rational justification for drawing a distinction between these families--the financial needs of the children and mothers exist in both. Access to tax refunds has already been proven an effective means to satisfy outstanding child support obligations. Extension to non-AFDC families and inclusion of state tax refunds will expand significantly its availability. However, one problem arises with interception of refunds from joint tax returns when only one parent is liable for past due support. Thus, it may be necessary to develop procedures to protect that portion of the refund due to the nonliable taxpayer.

The refusal of nearly two-thirds of absent parents to contribute to the support of their children makes appallingly clear the magnitude of the child support problem in this country. It is shameful that in a land which boasts a high standard of living and concern for quality of life, so many children and their mothers are condemned to lives of poverty, due in part to the chronic failure of the non-custodial parent to meet support responsibilities. Now that this national disgrace has been made a matter of public debate, perhaps they can look forward to an economically secure future.

Thank you.

Notes

[1] Nat'l Advisory Council on Economic Opportunity, *Critical Choices for the 80's* 1 (Aug. 1980).

[2] *Id.*

[3] Weitzman, *The Economics of Divorce: Social and Economic Consequences of Property, Alimony and Support Awards*, 28 U.C.L.A. L. Rev. 1181, (1981) (hereinafter referred to as Weitzman).

[4] Hunter, *Child Support Law and Policy: The Systematic Imposition of Costs on Women*, 6 Harvard Women's Law Journal 1 (1983) (hereinafter referred to as *Child Support Law and Policy*). The Census Bureau has predicted that it is likely that 40% of all marriages will end in divorce. U.S. Dept. of Commerce, Bureau of the Census, *Divorce, Custody, and Child Support* (1979).

[5] U.S. Dept. of Commerce, Bureau of the Census, *Marital Status and Living Arrangements: March 1981* 1, 5 (Table D) (1982) (hereinafter referred to as *Marital Status and Living Arrangements*).

[6] U.S. Dept. of Commerce, Bureau of the Census, *Child Support and Alimony: 1978* 1 (1981) (hereinafter referred to as *Child Support and Alimony*).

[7] *Marital Status and Living Arrangements* at 1.

[8] *Id.* at 3. The plight of Black and Hispanic women is even more serious--71% of Black women and 56% of Hispanic women are awarded no child support. *Child Support and Alimony* at 5 (Table B).

[9] U.S. Commn. on Civil Rights, *The Equal Rights Amendment: Guaranteeing Equal Rights for Women Under the Constitution* 13, n.122 (1980).

[10] *Child Support Law and Policy* at 2, n.10.

[11] *Id.* Hunter points out that this amount broken down by number of children amounts to $100 for one child; $164 for two children; $210 for three children and $230 for four or more children. A smaller national study found the average annual payment actually made in 1974 was $539. J. Cassety, *Child Support and Public Policy: Securing Support from Absent Fathers* 103 (1978).

[12] *See* Day, J., dissenting in *Edwards v. Edwards*, 92 N.W. 2d 160 (1980). See also Woods, Child Support: *A National Disgrace* 4 (Nat'l Center on Women and Family Law 1983).

Notes (continued)

[13] Yee, What Really Happens in Child Support Cases: An Empirical Study of the Establishment and Enforcement of Child Support Orders in the Denver District Courts, 57 Denver L.J. 21 50 (1970). The General Accounting Office has found that one half of the absent fathers of children on welfare had incomes over $8,500 a year. Of those who earned $12,000 a year or more, 70 percent failed to pay any support. L. Komisar, Down and Out in the USA, 150 (2d ed. 1977). See Summary of GAO Report at 120 Cong. Rec. 38196-98 (Dec. 4, 1974). Men with incomes of $30,000 to $50,000 have been found to be just as likely not to comply as men with incomes under $10,000. The White House, Administration Activities on Issues of Importance to Women 25 (Feb. 15, 1983).

[14] Sternin and Davis, Divorce Awards and Outcomes: A Study of Pattern and Change in Cuyahoga County, Ohio, 1965-1978, 8 (1981).

[15] Weitzman and Dixon, The Alimony Myth: Does No-Fault Divorce Make a Difference 14 Fam. L.Q. 141, 174-75 (1980).

[16] Dept. of Health and Human Services, Office of Child Support Enforcement, 6th Annual Report to Congress.

[17] H. Krause, Child Support in America: The Legal Perspective 4-5 (1981).

[18] Cassety, Emerging Issues in Child Support Policy and Practice, The Parental Child Support Obligation, Research, Practice & Policy 3 (1983).

[19] Weitzman at 1234; Yee at 30.

[20] Child Support Law and Policy at 9-13.

[21] Chambers, Making Fathers Pay: The Enforcement of Child Support (1979).

[22] Wisconsin Researcher Says Tougher Support Laws Will Ease Poverty. Marriage and Divorce Today 3 (Aug. 22, 1983).

NATIONAL RECIPROCAL AND FAMILY SUPPORT ENFORCEMENT ASSOCIATION

STATEMENT BY

WANDA R. RAICH, PRESIDENT

NATIONAL RECIPROCAL AND FAMILY SUPPORT ENFORCEMENT ASSOCIATION

BEFORE THE

SENATE FINANCE SUB-COMMITTEE

ON SOCIAL SECURITY AND INCOME MAINTENANCE

Wanda R. Raich
Friend of the Court
42nd Judicial Circuit
Court House
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Mr. Chairman and Members of the Senate Finance Sub-Committee:

On behalf of the National Reciprocal and Family Support Enforcement Association, I want to thank the sub-committee for this opportunity to present the concerns and recommendations of our Association regarding the proposed 1984 fiscal year budget reductions that seriously affect the Child Support Enforcement Program. I am Wanda R. Raich, President of the National Reciprocal and Family Support Enforcement Association. I also am Friend of the Court for the 42nd Judicial Circuit, Midland County, Midland, Michigan, serving a local jurisdiction as the director of a department responsible, in part, for support enforcement and collection -- both AFDC and Non-ADC.

I am here today as a representative of the National Reciprocal and Family Support Enforcement Association to express our thoughts and recommendations of the proposed legislation.

During the week of August 22, 1983, local and state support practitioners attended the National Reciprocal and Family Support Enforcement Association's 32nd Annual Conference on child support enforcement in St. Louis, Missouri. This National Association is an interstate, non-profit association of agencies and individuals actively engaged in forum support enforcement and represents the largest national forum for the transfer of comprehensive knowledge and expertise in the support enforcement field.

The Legislative Committee of the National Reciprocal and Family Support Enforcement Association has been a very involved and active one this past year and has provided the Board of Directors and the membership with extensive information and reports regarding pending Federal legislation. At its recent Annual Conference in St. Louis, and as a result of this Committee's exhaustive research and subsequent recommendations, the Board of the National Reciprocal and Family Support Enforcement Association has approved recommendations to ~~the~~ legislation in the following three areas:

1. Improvements to the interstate process;
2. Changes to the mandated laws; and
3. Alternate funding proposal

There is no doubt that the development of stronger and more uniform interstate family support laws would assist us all in our enforcement of Child Support Orders. Several States have not as yet adopted the revised URESA - effort should be made to assure this adoption in every State. It also would appear that there is a need for a Federal study of the URESA law -- revisions are needed.

Undoubtedly one of the most effective tools that could be available for collection of child support orders is the mandatory income withholding provision. Being permitted to serve income withholding orders for child support collection in interstate matters could facilitate enforcement and increase collections. Several States - Michigan among them - now provide for mandatory income withholding orders. The increase in support collections is most significant. The greatest benefit of the income withholding order to the child support worker and to the custodial parent is the "enforcement solution" -- the number of cases needing repeated Court attention and threats has diminished. Not only will the income withholding orders facilitate enforcement/collection, but they will eliminate the problem of the obligor being able to "use" non-payment of a child support order as a "tool" to acquire visitation.

A visitation order is every bit as important to enforce as is a support order; however, interlocking the issues of visitation with child support certainly is not beneficial to the children in these matters. Both visitation and child support orders should be enforced, but as separate issues.

As useful as the mandatory income withholding order is within those States now utilizing them, how remarkably effective interstate collections could be if legislation would validate use of such orders interstate.

The Association recommends that the words "income withholding" be used rather than "wage withholding". By use of the word "income" the withholding order can be not only for wages but could be for commissions, rents, bonuses, retirement benefits, pensions, workmen's compensation, unemployment benefits, dividends, royalties and trust accounts.

The tax refund intercept program that has been in effect for AFDC cases has been extremely successful resulting in an increased ability to collect long-delinquent AFDC arrearages. In the last two years under this program over $300,000,000 of funds have been reimbursed to the public for benefits that had been provided for the support of defaulting parents' children. Legislation permitting an increased ability of collection of long-delinquent Non-ADC arrearages from income tax intercepts could result in astounding amounts of back payments collected - to the definite benefit of custodial parents and their children. The National Reciprocal and Family Support Enforcement Association supports the tax offset provisions for Non-ADC cases; however, the Association does have procedural concerns - a delinquent payer of child support accounts whose taxes are intercepted could be married to a spouse who would amend tax returns using the 1040X process - and, if an intercepted tax return already had been forwarded to an obligee, subsequent adjustments to the account definitely would create a hardship for this custodial parent.

The National Reciprocal and Family Support Enforcement Association opposes legislation that would impose user or application fees on either party. By requiring fees to be paid for collection services, money that is sorely needed by custodial parties and children for food and other basic necessities is taken by the Court for such fees -- or, if imposed on the payer, many of whom are finding it already impossible to stretch inadequate incomes to support their present families along with their first families, such fees would create an even more impossible enforcement and collection situation.

The Association does support the concept of quasi-judicial or Administrative Procedures to assist States in expediting the entry of child support orders and subsequent modification and/or enforcement of said orders. However, it is the Association's recommendation that language should be deleted that would restrict States from using generally applicable judicial procedures. Legislation should allow States to continue the use of existing quasi-judicial systems - such as the referee system presently in effect in Michigan and other States -which does in fact facilitate the establishment and enforcement of support orders quickly and at less expense to the parties and the public.

The Association acknowledges and supports the fact that clearing houses and information systems are critical to enforcement, collection and disbursement of child support payments and further supports the present open-ended entitlement funding for computer systems development.

Although the National Reciprocal and Family Support Enforcement Association's official position has been to maintain program funding at its present level of 70 percent FFP plus 15 percent incentive, after much encouragement from members of Congress, an alternate funding proposal was agreed upon. This endorsement demonstrates our willingness to work with Congress towards program improvement. It does concern us, though, that Congress is entertaining the idea of reducing federal funding participation while applying additional pressure on States to expand services to those children not receiving public assistance. State and local child support programs are dedicated to quality service delivery, and will strive to meet the public need for services; however, the reduction of federal funding participation would create staffing restrictions that would limit the service available.

We recognize the importance of cost containment and goal orientation in our effort to provide service. However, we must stabilize the program's funding formula so that State and Local jurisdictions can concentrate on their original goal -- to collect child support for our children.

Our recommendation is for the adoption of the following formula -- a two-tier entitlement funding proposal:

1. Retain FFP at 70 percent with collections split at IV-A match rate
2. Incentive Awards
    a. AFDC Cases - Five percent incentive to the State with the obligor

b. Non-AFDC cases - ten percent incentive to the State with the obligor

In addition, we are recommending that the proposed performance audit criteria and corrective action periods be established to encourage performance improvement at both the State and the Local levels. It should remain a State's option to establish separate cost centers for paternity and for third party medical liability activities.

In closing, I would like to thank you for this opportunity to share our views and recommendations with you. Please be assured that the National Reciprocal and Family Support Enforcement Association continues to be ready to assist you in the development of an even better child support enforcement program to be, therefore, of greater benefit to our children and to the public.

SUMMARY OF TESTIMONY THEREIN

Mr. Chairman and Members of the Senate Finance Sub-Committee:

The National Reciprocal and Family Support Enforcement Association respectfully submits the following recommendations:

MANDATORY LAWS: We recommend that language be inserted to declare that the remedies mandated are in addition to but not in lieu of existing State remedies and that the use of any one of these remedies does not preclude the use of any other remedies. We are in favor of Legislation for the mandatory wage assignment, but recommend that the word "income" replace the word "wage". We are in favor that Federal and State tax offset programs be extended to include Non-ADC as well as AFDC cases, but have concerns about procedure. We support the proposed requirement for quasi-judicial or administrative proposals, but recommend language be deleted that restricts use of State's generally applicable judicial procedures. We endorse the concept of clearing houses and recommend continuation of the present entitlement funding for systems development.

FEES: We oppose any type of application or user fee structure.

FUNDING: We recommend the following funding proposal; and we stress the fact that we must stabilize the programs funding formula so State and Local jurisdictions can concentrate on their original goal -- to collect child support for America's children:

A. Retain FFP at seventy percent with collections split at IV-A match rate

B. Incentive Awards:

1. AFDC Cases - Five percent incentive to State with obligor
2. Non-AFDC Cases - Ten percent incentive to State with obligor

We support equal services to Non-AFDC and AFDC Cases, but stress that there will be substantial cost increases for emphasis of services to Non-AFDC costs.

NATIONAL RECIPROCAL AND FAMILY
SUPPORT ENFORCEMENT ASSOCIATION

P.O. BOX 6068 DES MOINES, IOWA 50309 515/262-6807

32nd Annual Child Support Enforcement Conference
St. Louis, Missouri
August 25, 1983

To achieve a federal, state, and local partnership, the National Reciprocal and Family Support Enforcement Association respectfully submits the following recommendations.

I. HOW TO IMPROVE THE INTERSTATE PROCESS.

- A. Permit the use of a modified W-4 Form to serve wage withholding orders.
    1. IRS would require the employer to withhold and send the money to the appropriate IV-D agency.
    2. The withholding would be limited to what the IV-D agency certifies within the limitations of the Consumer Protection Act.
    3. Limit to interstate cases.
    4. Provisions should be developed for obligors with more than one support obligation.
    5. Provisions should be developed to give the employer some compensation for handling costs.
- B. Full faith and credit to administrative order of all jurisdictions.
- C. States should seek the adoption of the revised URESA.
- D. Federal Study to stimulate revision of the URESA law.
- E. See paternity recommendation in Section E.
- F. Each state should be required to enact provisions for long-arm jurisdiction, permitting the establishment of support orders.
- G. Expand access and streamline procedure for IRS 6305 process.
- H. Visitation - Although we are committed to preserving the rights of children and recognize the need for visitation in addition to the noncustodial's rights to visit, interlocking the issue of visitation with child support has developed into a serious problem which is not beneficial to the child. Therefore, we support removing this injustice by requiring states to eliminate the defense for lack of visitation when enforcing or establishing support orders.

    A remedy to this problem is mandatory income withholding since once payments are regular, the obligee can no longer cite lack of payment as a reason for withholding visitation.

II. MANDATORY LAWS

Since the mandatory law section in H.R. 3545 and the companion bill S. 1708 are similar to H.R. 3546, our comments are directed specifically to the sections in H.R. 3546.

In proposed U.S.C. Section 467 - insert language to declare that the remedies mandated therein are in addition to but not in lieu of existing state remedies and that the use of any one of these remedies does not preclude the use of any other remedies.

A. Wage Withholding

1. We recommend that the term "income" be substituted for wage.
2. In proposed U.S.C. Section 467(1)(B) - modify notice requirement to provide that states should give notice only as may be required by state law and delete language requiring notice of the amount to be withheld.
3. In proposed U.S.C. Section 467 (1)(A) - modify effective date.
    - a. Effective upon date of entry of order.
    - b. That each state adopt or use existing procedures to enforce another state's orders when the obligor and obligee reside in the same state but the obligor goes across the state line to work in a border state.
4. In proposed U.S.C., Section 467(1)(D), specific language needs to include:
    - a. Commissions, rents, and bonuses;
    - b. Retirement benefits;
    - c. Pensions;
    - d. Workers compensation;
    - e. Unemployment benefits; and
    - f. Dividends, royalties, and trust accounts.

B. Administrative Law

1. Proposed U.S.C. 467(2) - Delete language restricting use of the state's generally applicable judicial procedures.

C. Federal Offset Provisions for Non-ADC Cases In H.R. 3545 and 3546

We have procedural concerns with the 1040X process. The obligee's present wife could amend the tax return using the 1040X process up to three years to obtain her share of the tax return. If the tax refund has already been forwarded to the obligee, any adjustment would definitely create a hardship.

D. Clearinghouse

1. Central clearinghouses are critical to the success-failures of wage withholding, i.e. - should the obligee disappear and IV-D agency is receiving those funds, they will not have any place to forward the money.

2. Support the present entitlement funding for computer systems development.

E. Paternity

1. Federal law mandating state law that would create a rebuttal presumption of parentage from blood test results.

2. Need professional standards for blood testing lab.

3. Each state should be required to enact a long-arm paternity jurisdiction statute.

F. Federal Enforcement - IRS 6305 Process

1. Expand access and streamline procedure for IRS 6305 process.

2. Eliminate last resort restriction.

3. OCSE regional offices will be responsible for central monitoring and reporting of those collections to avoid duplication of effort.

4. Permit the use of this process in combination with ongoing state enforcement remedies.

G. Fees

1. Do not support any type of application or user fee structure.

III. FUNDING

The organization supports the following funding proposal as developed by the National Council of State Child Support Enforcement Administrators. We endorse quality service delivery for all children in need of child support enforcement services as administrated under Title IV-D of the Social Security Act. We recognize the importance of cost containment and goal orientation in our effort to provide a service. However, it cannot be stressed enough that to achieve the desired results, we must stabilize the program's funding formula so state and local jurisdictions can concentrate on their original goal...to collect child support for America's children.

The following formula is a two-tier entitlement funding proposal:

A. Retain FFP at 70% with collections split at IV-A match rate

B. Incentive Awards

1. AFDC Cases - 5% incentive to the state with the obligor

2. Non-AFDC cases - 10% incentive to the state with the obligor

Additional General Provisions To The Proposal

1. Use the proposed performance audit criteria and corrective action periods to encourage program performance improvement at the state and local level.

2. State's option:

   a. Encourage states to establish separate cost centers for paternity and third party medical liability activities and remove those costs from the audit performance criteria. A special audit category could be established for paternity activities.

   b. Fees for non-ADC services.

We are of the opinion that this funding proposal would cost out similar to the program funding that will become effective October 1, 1983...70% FFP plus 12% incentive. We cannot stress enough that the potential for substantial cost increases will be inevitable if the Administration expands the program by placing additional emphasis on the non-ADC program.

We determined that the proposal would have the following impact:

1. Encourage higher child support orders;

2. Provides administrative simplicity at the state and local level;

3. Encourages states to increase non-ADC program activities;

4. Enhances interstate activities;

5. Encourages state to remove cases from the ADC program;

6. Encourages development of central registry;

7. Provides impact to the program quickly; and

8. It makes the Administration's and the Program's intent clear.

TESTIMONY PRESENTED BY
COMMISSIONER CESAR A. PERALES
NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES

In recent years, the many changes in the American family structure have placed ever increasing demands on our society. Although every child has a right to receive financial support from his parents, not all children are so fortunate as to actually receive that support, a fact which is borne out by the enormous expenditures this nation incurrs each year for Aid to Families with Dependent Children (AFDC). In over 85% of the AFDC cases in New York State, the reason for eligibility is the non-receipt of child support. This lack of support is not, however, limited to children receiving public assistance, as many non-welfare families are forced to live at or near the poverty level.

Since the establishment of the Child Support Enforcement Program by Congress in 1975, the results of efforts made in securing support for these children have been very encouraging. Collections in New York State on behalf of children in receipt of AFDC will reach an estimated $65 million for the current State fiscal year which ends March 31, a 110% increase over the $31 million collected during 1976. Of equal importance, collections for non-AFDC cases will rise from approximately $75 million to an estimated $104 million over the same period. The program derives direct benefits by reducing the welfare burden on the taxpayer, and indirect benefits by keeping the non-AFDC family off the public assistance rolls by insuring that legally responsible parents support their dependents. It is clear that the principal factor contributing to the success of the program has been the enriched federal funding made available for reimbursement of the program's administrative costs, and the methodology employed to share AFDC collections. The continued federal-level investment in the child support program is in the national interest as this activity attacks the major cause of the very expensive AFDC program -- non-support of children. The absence of this funding would cause a major setback to the child support enforcement program nationwide.

Changes to the current level of program financing are included as part of two bills under consideration by this committee, HR-4325 and S-1691. The Administration's proposal (S-1691) calls for a reduction of federal funding of administrative costs from 70% to 60%, and the elimination of the 12% incentive paid to states for AFDC collections. The impact of these reductions would be offset by the availability of bonus payments to states exhibiting exemplary performance. While I generally concur with the intent of this portion of the Administration's proposal, which seeks to reward efforts to improve program performance, I must object to the specific funding methodology it seeks to impose on the states. The provisions of HR-4325, which was unanimously passed in the House of Representatives, provides states with a more balanced approach by retaining the present 70% funding rate, and by establishing a new incentive system for both AFDC and non-AFDC collection performance, based upon the ratio of collections to expenditures. While I strongly urge that the committee incorporate these financing provisions of HR-4325 into a final proposal for Senate consideration, I also recommend that the provision relating to the non-AFDC incentive cap of 125% be modified to provide an incentive for those states whose non-AFDC collections already exceed 125% of AFDC collections. This can be accomplished by providing an additional incentive for that portion of non-AFDC collections which exceed the previous year's total non-AFDC collections. Failure to provide such an incentive may hinder the desired growth of non-AFDC collections, as efforts would tend to be concentrated on increasing AFDC collections only.

Several required practices are included as part of both HR-4325 and S-1691. The first of these, mandatory wage withholding has worked successfully in New York State, and we would hope that any federal-level mandate for such procedure would include sufficient flexibility to allow us to continue use of our present system without extensive modification. For example, I recommend that the provision in HR-4325 allowing employers to retain fees to cover the cost of the withholding process be made optional, to allow states to choose the methodology best suited to its laws and local environment. This function is currently performed by New York State employers without the availability of a fee, and is recognized as a beneficial community and public service function which serves both private individuals and the business community by decreasing the drain on tax dollars. Additionally, I suggest that any provision for automatic wage withholding which becomes effective without any additional judicial proceedings, apply only to those support orders which originally directed payments to or through a government agency. This would guard against false claims of non-payment where such payments are ordered payable direct to the family. Finally, the imposition of a fee up to $25 levied against any respondent who requests income withholding as proposed in HR-4325, is a disincentive to voluntary participation, a procedure we should encourage.

Another required practice included in both bills deals with the improvement of performance related to the establishment and enforcement of support obligations. While I certainly support the examination by states of various methods designed to expedite and otherwise improve this process, I must point out that the requirement in S-1691 for the establishment of a quasi-judicial or administrative procedure could cause serious administrative difficulties in some states. To mandate such an activity would limit a state's choice on how to organize its programs, and could conflict with a state's constitutional requirements regarding organizational functions and duties. I request that this committee oppose that portion of S-1691.

Further provisions of S-1691 require states to charge non-AFDC clients an application fee of at least $25 at the time child support enforcement services are requested, and mandate the imposition of collection charges against delinquent respondents in non-AFDC cases. I request that this committee strongly oppose that portion of the Administration's proposal. The imposition of such a fee could pose a hardship on many families at a time when they are experiencing financial difficulty. To impose a fee for this type of government service would seem to conflict with the primary purpose of offering the service -- to provide financial support. Also, the mandated charge against respondents with delinquent accounts would most likely never be collected in most cases, since delinquent support obligations would have to be satisfied prior to satisfaction of any accrued collection charges. Thus, states would experience a significant administrative burden in carrying out these provisions, with minimal financial benefit.

The provision in HR-4325 which provides four months of continuing medicaid benefits to any family which loses AFDC eligibility as the result of an increase in child support payments, properly allows such a family to incrementally regain control of its financial management. This appears to parallel existing law which provides for continued mediciad benefits for four months to families who lose eligibility for AFDC due to employment or increased hours of employment. We support this conforming change.

Both HR-4325 and S-1691 provide for a mandatory state income tax refund offset process, new federal audit and penalty provisions, increased availability of the federal parent locator service, the extension of 1115 demonstration grants, and the reinstatement of the authority to handle support matters for foster care cases in the same manner as AFDC cases. In addition, HR-4325 further provides for mandated utilization of property liens, strengthening of paternity statutes, imposition of security or bond requirements, publicizing the availability of child support services, submitting arrearage information to credit agencies, and the establishment in each state of a commission to examine the child support enforcement program. These provisions are welcome enhancements to the operation and management of the child support enforcement program, and properly reflect the cooperation necessary for improved program performance. In fact, I am pleased to report that Governor Cuomo, in his Annual Message to members of the New York State Legislature on January 4th of this year, stated he would create a Child Support Task Force to monitor administrative and judicial procedures and to make recommendations for program improvement.

I wish to thank you for the opportunity to present New York State's views on this very important subjec I urge you to take the necessary steps to insure that sufficient funding remains available to allow states to properly carry out their full range of responsibilities under the child support enforcement program. With your assistance, we will build upon the progress we have made in the past, and move closer to the goal of returning the responsibility for supporting all children to their parents.

WRITTEN TESTIMONY OF
JACK D. PARADISE

February 6, 1984

Submitted to United States Senate, Finance Committee

Attention: Senator Robert Dole

Regarding child support enforcement legislation

Dear Senator Dole,

I am a principal or President of several family businesses here in Kansas...Jayhawk Plastics, Inc., Jayhawk Steel and various real estate investment ventures here and in Florida. I also serve "pro bono publico" as President of the American Child Custody Alliance, a national divorce reform organization, as well as President of Divorced Dads, Inc., a tax exempt, non-profit organization operating in Kansas and Missouri. Divorced Dads, Inc. has authored significant state legislation in both Missouri and Kansas. Some of this legislation has and will have a positive impact on the collection of child support.

From my vantage point as a businessman, married (once divorced) father of three children, divorce reformer, citizen and taxpayer I am very concerned with the child support collection legislation now being considered by your committee.

For years the Congress has declined to involve itself in family law legislation, usually with the position that this is a state matter. Now there is sudden and intense interest in collecting child support through wage assignment in the interest of reducing the tax burden created by non-paying parents. I agree absolutely that all parents, both married and divorced, have an obligation to support their children. However, I disagree that wage assignment will be an effective means of reducing the tax burden. Research recently compiled by Divorced Dads, Inc. (attached) suggests that the Census Bureau statistics, indicating that over 50% of divorced fathers don't pay the full support, are inaccurate and misleading. The study referenced above was conducted on over 150 divorced fathers from Kansas and Missouri and indicates a full support compliance rate of about 80%. In joint custody cases the support compliance rate is significantly higher at 91%. These figures differ sharply with the Census statistics, upon which the Congress seems to be relying in considering the subject legislation. The Office of Child Support Enforcement budget for 1982 was over $500 million. It is my feeling that this amount could be cut in half if the Congress instead passed legislation requiring a preference and presumption for joint custody in all 50 states.

I am opposed to this legislation as a businessman and employer. What this legislation will ultimately create is a new deduction on nearly half the paychecks in America. We already know what it costs to administer social security and personal income tax, both in the private and government sectors. A new deduction on paychecks will result in hundreds of millions of dollars of administrative and clerical costs both for industry and government, with little increase in the support collection rate.

Much of the non support paying statistics cited by the Census study is attributable to welfare fraud and cases where parentage has not been firmly established. Over the past few years I have personally talked with over 1,000 divorced fathers here in Kansas and Missouri. Overwhelmingly these men want to support their children, but our family law "system" routinely disposes of them in divorce court and makes them visitors in their childrens' lives. Considering the system, it is very surprising that as many pay the support ordered as indicated in the research referenced above. Wage assignment will only produce results on a very small percentage of divorced parents who simply refuse to pay at all. The cost to administer a program merely to make collections on a small percentage of problem people will be a wasteful expenditure of the taxpayers' money.

I am opposed to this legislation as a citizen and taxpayer. A large quantity of bills relating to support enforcement have been filed in the past year and I do not believe the average citizen has any knowledge of these bills. Considering the funding costs of these proposals, I believe more citizen input is necessary before the Congress passes anything. I am firmly convinced the average man or woman in America would instead favor cleaning up the entire divorce/custody/visitation/support system. The subject legislation only considers one very narrow piece of the puzzle.

In conclusion, there is no true emergency requiring quick passage of wage assignment bills. This is a very serious matter that warrants much more extensive study by the Congress as well as input from both the professional and non-professional public. Given such study, I believe the Congress would pass legislation dealing with the entire divorce system, truly reflective of the will of the people.

Thank you.

Sincerely,

Jack D. Paradise

Jack D. Paradise

JDP:ms

FATHERS AFTER DIVORCE

A Study of Fathers Divorced in Kansas and Missouri

Conducted by Divorced Dads, Inc.
9229 Ward Parkway, Suite 320
Kansas City, Missouri 64114

January, 1984

SUMMARY OF SIGNIFICANT FINDINGS:

Only 4% of fathers say that at the time of divorce they did not want custody, yet only 4% received sole custody and only 8% were awarded joint custody.

Self-reporting by divorced fathers obligated to pay child support indicates significantly higher support compliance rates than a Census study based only on self-reporting by support-recipient mothers.

Joint custody fathers exhibit only 9% noncompliance with support orders, and claim greater access to their children, more general satisfaction with the amount of support they pay and time they have with their children.

Most noncustodial fathers claim they would be willing to pay more support if they had joint custody and knew their children needed the increase.

Most noncustodial fathers express general dissatisfaction with their treatment by the courts and their lack of access to their children and information about their children.

The children of one of three noncustodial fathers have moved away from the area which was their home at the time of divorce, and fathers left behind claim increased difficulties and costs in exercising visitation.

Fathers delinquent on support payments claim loss of income as the most frequent reason and visitation denials as the second most common causative factor.

Fathers who won sole custody had to spend an average of $17,323 to do so.

DETAILED FINDINGS

CURRENT STATUS OF THE FATHERS

Four out of ten of the fathers tried to maintain their parental involvement in their children's lives by seeking legal custody.

Of those who did not seek custody,

44% claimed to have been persuaded by their attorneys that their chances of winning were too slim;

18% cited prohibitive legal fees as their reason for not seeking custody;

12% said they did not want to participate in a legal battle over their children

Only 4% said they simply did not want custody.

Of the study sample,

4% Sought and received Sole Custody

8% Sought custody and received Joint Custody

26% Sought custody and lost, becoming Noncustodial Parents

62% Did not seek custody and became Noncustodial Parents

The 4% who sought and won sole custody spent an average of $17,323 in legal fees, expert witness fees and related costs. The average total of these costs for all fathers was $5,545. 53% of the fathers were ordered to pay all or part of their ex-spouse's attorney fees.

Of fathers who received joint custody, 36% did so by the agreement of both parents, the rest by an order of the court. Half the fathers who received joint custody by court order requested sole custody; all mothers who received joint custody by court order had sought sole custody.

VISITATION RIGHTS

The initial award and actual visitation:

One of three fathers received an award of non-specific and legally unenforceable visitation.

Four of five claim they have been denied visitation. For 30%, the court-awarded visitation, even if specific, is theoretical: the mother has moved away with the child, and in 80% of these cases, the father says visitation has been reduced and the cost of visitation have increased.

Noncustodial fathers with specific visitation were awarded an average of 70 days a year; 44% claim visitation denials are a continuing problem, and 80% express dissatisfaction with the visitation arrangement. In contrast, joint custodial fathers have an average of 145 days a year with the children; only 9% note ongoing problems with visitation, and about half express satisfaction with the arrangement.

CHILD SUPPORT

Each father supports an average of 1.64 children.
The average age of the children is 5.8 years.

Average support per child:

$197	per month in direct child support
$ 52	per month in other support (e.g. medical insurance, school tuition, etc.)
$249	per month per child

Average support per obligor:

$324	per month in direct child support
$ 85	per month in other support (e.g. medical insurance, school tuition, etc.)
$409	per month per obligor

Compliance — attitudes toward payment and performance:

Of the fathers who were awarded sole custody, 28% were nonetheless ordered to pay child support to the noncustodial mother. They have refused to pay and are in noncompliance with a court order which would actually lessen their ability to provide for their children.

(Child Support Compliance - continued)

Of the fathers who were awarded joint custody, 64% feel that the amount they were ordered to pay is fair, and 91% claim to be in full compliance with the order. Fathers with joint custody pay only 9% less than the average despite the fact that they have the children with them 40% of the year.

Of the fathers who sought sole custody and lost, 65% feel the amount they were ordered to pay is excessive and 20% admit being in noncompliance with the order.

Of the fathers who did not seek custody, 57% feel the award is fair and 77% claim to be in compliance with the order.

Four out of five noncustodial fathers claim that they would voluntarily increase child support if they were given joint legal and physical custody and knew their chilren needed the increase. Four out of five noncustodial fathers also state that they begrudge paying child support because of their treatment by the legal system.

Among those who acknoledge being behind on support payments, the most commonly cited reasons are (in order of frequency):

1. A decrease in their earnings resulting from loss of employment;
2. Visitation denials;
3. Protest based on allegations that support money is not being spent on the child.

ACCESS TO INFORMATION ABOUT THE CHILDREN

Fathers were asked whether they had access to their children, and information about them. The response of the joint custody fathers and noncustodial fathers are reproduced below:

	Joint Custody Fathers	Noncustodial Fathers
Have access to:		
School records	54%	15%
Medical records	67%	13%
School activities	67%	14%
General information	56%	15%

METHODOLOGY: Mail survey questionnaire

POPULATION: 168 divorced fathers

Sought and were awarded sole custody:	7	4%
Sought custody, awarded joint custody:	13	8%
Sought custody unsuccessfully, now noncustodial fathers:	44	26%
Did not seek custody, now noncustodial fathers:	104	62%

STATEMENT OF THE COUNTY OF SAN DIEGO
SUBMITTED TO THE SENATE FINANCE COMMITTEE
REGARDING S. 1691,
THE CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1983

The County of San Diego appreciates the opportunity to submit comments to the Committee with regard to S. 1691, the "Child Support Enforcement Amendments of 1983." These comments will be directed only to those issues of most concern to the County. As a result of these concerns, the Board of Supervisors of San Diego County, on February 8, 1984, voted to oppose S. 1691 and similar legislation.

While on a nationwide basis there are many positive elements in the proposed legislation, there are specific provisions which the County finds objectionable. Those are as follows:

1. Modified Enforcement Techniques

S. 1691 requires that each State enact certain procedures in collection/establishment of child support. Among other things, the bill requires specific mandatory wage withholding statutes and adoption of a quasi-judicial or administrative procedure to establish/enforce support orders. Although the general thrust of these several mandatory procedures may be effective nationwide, California may be faced with stumbling blocks in an already effective program.

California law presently allows for several types of mandatory wage withholding procedures to collect both current support and past-due support. These procedures, most recently modified in 1983, have been in force for several years and have proved most effective. California courts, in passing upon their legality, including notice requirements to employers and to the obligated parent, have found no lack of due process. Under S. 1691, further notice requirements will be mandated which are now unnecessary and more delays in the collection process than presently exists in California. Further, S. 1691 would require States to impose fines on employers who dismiss individuals because of the wage assignment. Proof of the employer's reason for dismissal will be difficult for local agencies to gather and present in court.

S. 1691 also would require each State to implement a quasi-judicial or administrative procedure to establish/enforce support orders. The effect in California would require the establishment of another level of judiciary over and above what California already has and require local child support agencies in California to appear in the administrative process and the present judicial system before an effective support order could be established or enforced. Implementation of such a system, together with the added costs and time delays in using such a process, may well cost both State and local governments more money than the process would collect. Without further refinement in the bill as to what is meant by a quasi-judicial process or administrative procedure, nor what procedures presently in existence would be satisfy this requirement, California child support agencies would be placed in the uncertain position of not knowing if they are in compliance with Federal mandates.

2. Federal Financial Participation in Administrative Costs and Federal Financial Incentives

Present law provides for Federal financial participation in administrative costs of child support enforcement programs at the rate of 70 percent Federal funding and 30 percent State/county funding. S. 1691 would change that percentage to 60 percent Federal funding and 40 percent State/county funding. Present law also provides for a Federal financial incentive of 12 percent return to State/local agencies on AFDC family collections. S. 1691 would repeal that incentive and replace the incentive system with a recognition payment system. This recognition payment system would authorize the Secretary of HHS to make payments to a state agency whose program is found to be exemplary in the amount of collections made, the cost efficiency with which the program is operated, or the magnitude of costs to other assistance programs that the Secretary finds could reasonably have been expected to occur had it not been for the performance of the State's program. The Secretary is authorized to consider factors such as the amount of a State's collections in a prior period and the cost efficiency of a State's program as compared to other State programs. Total payments with respect to collections on behalf of AFDC and non-AFDC families must be equal, and the Secretary must review the criteria for making payments biennially.

The proposed change from 70 percent administrative Federal funding to 60 percent funding is great and will affect every State and local agency's support program. When coupled with the repeal of the present incentive system and enactment of the recognition payment system of S. 1691, the reduced Federal funding for State and local agencies becomes tremendous. The bill fails to specify the conditions for and levels of payments under its proposed incentive/recognition system, and the times at which payments will be made. Further, nowhere in the bill is it stated that each State shall make appropriate payments of the recognition payments to local agencies which actually do the support establishment/enforcement work. Moreover, any attempt by either State or local support agencies to establish a meaningful budget for future years, or to include any revenue due from such payments, would be meaningless, if not impossible. H.R. 4325, as passed by the House in November, 1983, more clearly addresses the issue of incentive payments by recognizing that certain standards for good performance are required; and if met, should be rewarded. That bill's incentive payment plan would at least provide State and local agencies with some certain guidance and basis on which to estimate incentive payments and some certain performance criteria. In summary, any changes to the present Federal financing plan should result in State/local agencies receiving at least the same level of revenue as now exists.

3. Mandatory Fee for Non-AFDC Families

S. 1691 would require a State to charge an application fee of at least $25 for services to non-AFDC families. Any higher fee charged by a State must be "reasonable" under regulations to be issued by the Secretary. To require non-AFDC families to pay for service by a governmental agency to collect unpaid child support is to impose financially on families who can least afford it. Experience shows that the majority of non-AFDC families serviced by State and local child support agencies seek that service because they cannot afford to retain private counsel. Such a fee system would also create added administrative problems for States. The bill is unclear what cases would be required to pay the fee. For example, it is uncertain whether a non-AFDC family presently receiving services would be required to pay the fee or risk having the services of the State terminated. Moreover, it is unclear whether a family recently ineligible for AFDC because of child support payments secured by State action, would be required to pay a fee or face having their cases closed by the State agency and again revert to AFDC status. And finally, the burden on State and local agencies in monitoring and attempting to impose the fee on families who vacillate several times a year between AFDC and non-AFDC status would create added costs and burdens on already understaffed programs. In short, a mandatory fee requirement offers no prospect of increased service or collections.

4. Collection Fee from Obligated Parents

As part of the mandatory fee for non-AFDC families seeking State assistance, S. 1691 also provides that costs may be collected (and, when support is past due, must be collected) by charging the obligated parent a uniform amount established by the State equal to 3 to 10 percent of the current month's obligation, or of the current month's obligation plus any past-due support. Further, the bill requires that a State may not take action which would have the effect, directly or indirectly, of reducing the support paid to the child, As presently written, language of S. 1691 on this collection fee is not clear. It would seem to allow imposition of a collection fee at whatever a state wanted, so long as it was within the 3 to 10 percent limitation of the bill. Furthermore, the language requiring imposition of this fee seems to add the further requirement that such a fee must be and can only be imposed by court order, thus requiring States to seek court orders before collecting it. Although the child support enforcement program does cost money when servicing non-AFDC families, the required collection fee does not appear to return any of those costs effectively to the program. Perhaps a different approach such as allowing States to retain a given percentage of support collected on behalf of non-AFDC families would better meet the desire to reduce program costs.

Beyond the concerns which we have attempted to share with you in the material above, the County is perplexed with regard to the failure of S. 1691 to require the Federal Government to implement a tax intercept system with respect to non-AFDC families. The Federal Government does administer such a system with respect to AFDC families. Further, under existing law, States may implement a tax intercept system with regard to non-AFDC cases. The Federal Government has not implemented such a program for non-AFDC cases. Why? Were the Federal Government to implement a tax intercept system for non-AFDC child support enforcement cases, local collections could be significantly increased. We have estimated in the County of San Diego that our collections for non-AFDC families would increase by approximately $1 million to $2 million annually. We request that your Committee give consideration to this issue.

We have made our testimony brief in the hopes of drawing your attention to those issues which we deem to be most critical with respect to this important legislation. We are compelled to oppose this legislation because of the significant, and we believe, unintended negative consequences which it would portend for our local program. With all due respect, we would urge the Committee not to pass this legislation. Rather, we respectfully recommend that meaningful consultation commence with the various State and local agencies which are charged with the responsibility of implementing child support enforcement laws. In this way, our child support enforcement laws can perhaps be strengthened in ways which will not serve to cause financial harm to the local agencies which must implement them.

The County of San Diego appreciates the Committee's consideration of these comments.

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